

**Effective 1/24/2018**

**Title 53E. Public Education System -- State Administration**

**Chapter 1  
Title Provisions**

**Part 1  
General Provisions**

**53E-1-101 Title.**

- (1) This title is known as "Public Education System -- State Administration."
- (2) This chapter is known as "Title Provisions."

Enacted by Chapter 1, 2018 General Session

**53E-1-102 Public education code definitions.**

As used in this title, Title 53F, Public Education System -- Funding, and Title 53G, Public Education System -- Local Administration, "public education code" means:

- (1) this title;
- (2) Title 53F, Public Education System -- Funding; and
- (3) Title 53G, Public Education System -- Local Administration.

Enacted by Chapter 1, 2018 General Session

**53E-1-103 Title 53E definitions.**

Reserved

Enacted by Chapter 1, 2018 General Session

**Part 2  
Reports**

**53E-1-201 Reports.**

Reserved

Enacted by Chapter 1, 2018 General Session

**Chapter 2  
Public Education System Policy**

**Part 1  
General Provisions**

**53E-2-101 Title.**

This chapter is known as "Public Education System Policy."

Enacted by Chapter 1, 2018 General Session

## **Part 2**

### **Policy and Planning for the Public Education System**

#### **53E-2-201 Policy for Utah's public education system.**

- (1)
  - (a) The continuous cultivation of an informed and virtuous citizenry among succeeding generations is essential to the state and the nation.
  - (b) The state's public education system is established and maintained as provided in Utah Constitution, Article X, and this public education code.
  - (c) Parents and guardians have the primary responsibility for the education of their children and elect representatives in the Legislature and on state and local school boards to administer the state public education system, which provides extensive support and assistance. All children of the state are entitled to a free elementary and secondary public education as provided in Utah Constitution, Article X.
  - (d) Public schools fulfill a vital purpose in the education and preparation of informed and responsible citizens who:
    - (i) fully understand and lawfully exercise their individual rights and liberties;
    - (ii) become self-reliant and able to provide for themselves and their families; and
    - (iii) contribute to the public good and the health, welfare, and security of the state and the nation.
- (2) In the implementation of all policies, programs, and responsibilities adopted in accordance with this public education code, the Legislature, the State Board of Education, local school boards, and charter school governing boards shall:
  - (a) respect, protect, and further the interests of parents and guardians in their children's public education; and
  - (b) promote and encourage full and active participation and involvement of parents and guardians at all public schools.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-2-202 Planning for Utah's public education system.**

- (1) Before November 30, 2016, the State Board of Education shall:
  - (a)
    - (i) prepare a report that summarizes, for the last 15 years or more, the policies and programs established by, and the performance history of, the state's public education system; and
    - (ii) prepare a formal 10-year plan for the state's public education system, including recommendations to:
      - (A) repeal outdated policies and programs; and
      - (B) clarify and correlate current policies and programs; and
  - (b) submit the report and plan described in Subsection (1)(a) to the Education Interim Committee for review and recommendations.

- (2) The State Board of Education shall review and maintain the 10-year plan described in Subsection (1)(a)(ii) and submit the updated plan to the Education Interim Committee for review and approval at least once every five years.

Renumbered and Amended by Chapter 1, 2018 General Session

### **Part 3**

## **Goals and Methods of the Public Education System**

#### **53E-2-301 Public education's vision and mission.**

- (1) The Legislature envisions an educated citizenry that encompasses the following foundational principles:
  - (a) citizen participation in civic and political affairs;
  - (b) economic prosperity for the state by graduating students who are college and career ready;
  - (c) strong moral and social values; and
  - (d) loyalty and commitment to constitutional government.
- (2) The Legislature recognizes that public education's mission is to assure Utah the best educated citizenry in the world and each individual the training to succeed in a global society by providing students with:
  - (a) learning and occupational skills;
  - (b) character development;
  - (c) literacy and numeracy;
  - (d) high quality instruction;
  - (e) curriculum based on high standards and relevance; and
  - (f) effective assessment to inform high quality instruction and accountability.
- (3) The Legislature:
  - (a) recognizes that parents or guardians are a child's first teachers and are responsible for the education of their children;
  - (b) encourages family engagement and adequate preparation so that students enter the public education system ready to learn; and
  - (c) intends that the mission detailed in Subsection (2) be carried out through a responsive educational system that guarantees local school communities autonomy, flexibility, and client choice, while holding them accountable for results.
- (4) This section will be applied consistent with Section 53G-10-204.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-2-302 Characteristics of public education system.**

The Legislature shall assist in maintaining a public education system that has the following characteristics:

- (1) assumes that all students have the ability to learn and that each student departing the system will be prepared to achieve success in productive employment, further education, or both;
- (2) provides a personalized education plan or personalized education occupation plan for each student, which involves the student, the student's parent or guardian, and school personnel in establishing the plan;

- (3) provides students with the knowledge and skills to take responsibility for their decisions and to make appropriate choices;
- (4) provides opportunities for students to exhibit the capacity to learn, think, reason, and work effectively, individually and in groups;
- (5) offers world-class core standards that enable students to successfully compete in a global society, and to succeed as citizens of a constitutional republic;
- (6) incorporates an information retrieval system that provides students, parents, and educators with reliable, useful, and timely data on the progress of each student;
- (7) attracts, prepares, inducts, and retains excellent teachers for every classroom in large part through collaborative efforts among the State Board of Education, the State Board of Regents, and school districts, provides effective ongoing professional development opportunities for teachers to improve their teaching skills, and provides recognition, rewards, and compensation for their excellence;
- (8) empowers each school district and public school to create its own vision and plan to achieve results consistent with the objectives outlined in this part;
- (9) uses technology to improve teaching and learning processes and for the delivery of educational services;
- (10) promotes ongoing research and development projects at the district and the school level that are directed at improving or enhancing public education;
- (11) offers a public school choice program, which gives students and their parents options to best meet the student's personalized education needs;
- (12) emphasizes the involvement of educators, parents, business partnerships, and the community at large in the educational process by allowing them to be involved in establishing and implementing educational goals and participating in decision-making at the school site; and
- (13) emphasizes competency-based standards and progress-based assessments, including tracking and measurement systems.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-2-303 Parental participation in educational process -- Employer support.**

- (1) The Legislature recognizes the importance of parental participation in the educational process in order for students to achieve and maintain high levels of performance.
- (2) It is, therefore, the policy of the state to:
  - (a) encourage parents to provide a home environment that values education and send their children to school prepared to learn;
  - (b) rely upon school districts and schools to provide opportunities for parents of students to be involved in establishing and implementing educational goals for their respective schools and students; and
  - (c) expect employers to recognize the need for parents and members of the community to participate in the public education system in order to help students achieve and maintain excellence.
- (3)
  - (a) Each local school board shall adopt a policy on parental involvement in the schools of the district.
  - (b) The board shall design its policy to build consistent and effective communication among parents, teachers, and administrators.
  - (c) The policy shall provide parents with the opportunity to be actively involved in their children's education and to be informed of:

- (i) the importance of the involvement of parents in directly affecting the success of their children's educational efforts; and
- (ii) groups and organizations that may provide instruction and training to parents to help improve their children's academic success and support their academic efforts.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-2-304 School district and individual school powers -- Plan for college and career readiness definition.**

- (1) In order to acquire and develop the characteristics listed in Section 53E-2-302, each school district and each public school within its respective district shall implement a comprehensive system of accountability in which students advance through public schools by demonstrating competency in the core standards for Utah public schools through the use of diverse assessment instruments such as authentic assessments, projects, and portfolios.
- (2)
  - (a) Each school district and public school shall:
    - (i) develop and implement programs integrating technology into the curriculum, instruction, and student assessment;
    - (ii) provide for teacher and parent involvement in policymaking at the school site;
    - (iii) implement a public school choice program to give parents, students, and teachers greater flexibility in designing and choosing among programs with different focuses through schools within the same district and other districts, subject to space availability, demographics, and legal and performance criteria;
    - (iv) establish strategic planning at both the district and school level and site-based decision making programs at the school level;
    - (v) provide opportunities for each student to acquire and develop academic and occupational knowledge, skills, and abilities;
    - (vi) participate in ongoing research and development projects primarily at the school level aimed at improving the quality of education within the system; and
    - (vii) involve business and industry in the education process through the establishment of partnerships with the business community at the district and school level.
  - (b)
    - (i) As used in this section, "plan for college and career readiness" means a plan developed by a student and the student's parent or guardian, in consultation with school counselors, teachers, and administrators that:
      - (A) is initiated at the beginning of grade 7;
      - (B) identifies a student's skills and objectives;
      - (C) maps out a strategy to guide a student's course selection; and
      - (D) links a student to post-secondary options, including higher education and careers.
    - (ii) Each local school board, in consultation with school personnel, parents, and school community councils or similar entities shall establish policies to provide for the effective implementation of an individual learning plan or a plan for college and career readiness for each student at the school site.
    - (iii) The policies shall include guidelines and expectations for:
      - (A) recognizing the student's accomplishments, strengths, and progress toward meeting student achievement standards as defined in the core standards for Utah public schools;
      - (B) planning, monitoring, and managing education and career development; and

- (C) involving students, parents, and school personnel in preparing and implementing an individual learning plan and a plan for college and career readiness.
  - (iv) A parent may request a conference with school personnel in addition to an individual learning plan or a plan for college and career readiness conference established by local school board policy.
  - (v) Time spent during the school day to implement an individual learning plan or a plan for college and career readiness is considered part of the school term described in Section 53F-2-102 .
- (3) A school district or public school may submit proposals to modify or waive rules or policies of a supervisory authority within the public education system in order to acquire or develop the characteristics listed in Section 53E-2-302.
- (4)
- (a) Each school district and public school shall make an annual report to its patrons on its activities under this section.
  - (b) The reporting process shall involve participation from teachers, parents, and the community at large in determining how well the district or school is performing.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 456, 2018 General Session

## **Chapter 3**

### **State Board of Education Organization, Powers, and Duties**

#### **Part 1**

#### **General Provisions**

##### **53E-3-101 Title.**

This chapter is known as "State Board of Education Organization, Powers, and Duties."

Enacted by Chapter 1, 2018 General Session

#### **Part 2**

#### **Organization**

##### **53E-3-201 State Board of Education members -- Election and appointment of officers -- Removal from office.**

- (1) Members of the State Board of Education shall be nominated and elected as provided in Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.
- (2) The State Board of Education shall elect from its members a chair, and at least one vice chair, but no more than three vice chairs, every other year at a meeting held any time between November 15 and January 15.
- (3)

- (a) If the election of officers is held subsequent to the election of a new member of the board, but prior to the time that the new member takes office, the new member shall assume the position of the outgoing member for purposes of the election of officers.
- (b) In all other matters the outgoing member shall retain the full authority of the office until replaced as provided by law.
- (4) The duties of these officers shall be determined by the board.
- (5) The board shall appoint a secretary who serves at the pleasure of the board.
- (6) An officer appointed or elected by the board under this section may be removed from office for cause by a vote of two-thirds of the board.

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 336, 2018 General Session

**53E-3-202 Compensation for members of the State Board of Education -- Insurance -- Per diem and expenses.**

- (1) The salary for a member of the State Board of Education is set in accordance with Section 36-2-3.
- (2) Compensation for a member of the State Board of Education is payable monthly.
- (3) A State Board of Education member may participate in any group insurance plan provided to employees of the State Board of Education as part of the State Board of Education member's compensation on the same basis as required for employee participation.
- (4) In addition to the provisions of Subsections (1) and (3), a State Board of Education member may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-203 State board meetings -- Quorum requirements.**

- (1) The State Board of Education shall meet at the call of the chairman and at least 11 times each year.
- (2) A majority of all members is required to validate an act of the State Board of Education.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-204 Gross neglect of duty -- Nonpayment of salary or expenses.**

- (1) Failure of a member of the State Board of Education or of a governing board of a branch or division of the public school system to carry out responsibilities assigned by law or to comply with rules of the State Board of Education is gross neglect of duty.
- (2) Salary or expenses shall not be paid for work which violates rules of the board.

Renumbered and Amended by Chapter 1, 2018 General Session

**Part 3**  
**State Superintendent**

**53E-3-301 Appointment -- Qualifications -- Duties.**

- (1)
- (a) The State Board of Education shall appoint a superintendent of public instruction, hereinafter called the state superintendent, who is the executive officer of the State Board of Education and serves at the pleasure of the State Board of Education.
  - (b) The State Board of Education shall appoint the state superintendent on the basis of outstanding professional qualifications.
  - (c) The state superintendent shall administer all programs assigned to the State Board of Education in accordance with the policies and the standards established by the State Board of Education.
- (2) The State Board of Education shall, with the state superintendent, develop a statewide education strategy focusing on core academics, including the development of:
- (a) core standards for Utah public schools and graduation requirements;
  - (b) a process to select model instructional materials that best correlate with the core standards for Utah public schools and graduation requirements that are supported by generally accepted scientific standards of evidence;
  - (c) professional development programs for teachers, superintendents, and principals;
  - (d) model remediation programs;
  - (e) a model method for creating individual student learning targets, and a method of measuring an individual student's performance toward those targets;
  - (f) progress-based assessments for ongoing performance evaluations of school districts and schools;
  - (g) incentives to achieve the desired outcome of individual student progress in core academics that do not create disincentives for setting high goals for the students;
  - (h) an annual report card for school and school district performance, measuring learning and reporting progress-based assessments;
  - (i) a systematic method to encourage innovation in schools and school districts as each strives to achieve improvement in performance; and
  - (j) a method for identifying and sharing best demonstrated practices across school districts and schools.
- (3) The state superintendent shall perform duties assigned by the State Board of Education, including:
- (a) investigating all matters pertaining to the public schools;
  - (b) adopting and keeping an official seal to authenticate the state superintendent's official acts;
  - (c) holding and conducting meetings, seminars, and conferences on educational topics;
  - (d) presenting to the governor and the Legislature each December a report of the public school system for the preceding year that includes:
    - (i) data on the general condition of the schools with recommendations considered desirable for specific programs;
    - (ii) a complete statement of fund balances;
    - (iii) a complete statement of revenues by fund and source;
    - (iv) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;
    - (v) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by



function and object as outlined in the United States Department of Education publication

"Financial Accounting for Local and State School Systems";

(vi) a statement that includes data on:

- (A) fall enrollments;
- (B) average membership;
- (C) high school graduates;
- (D) licensed and classified employees, including data reported by school districts on educator ratings pursuant to Section 53G-11-511;
- (E) pupil-teacher ratios;
- (F) average class sizes;
- (G) average salaries;
- (H) applicable private school data; and
- (I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vii) statistical information regarding incidents of delinquent activity in the schools or at school-related activities with separate categories for:

- (A) alcohol and drug abuse;
- (B) weapon possession;
- (C) assaults; and
- (D) arson;

(viii) information about:

- (A) the development and implementation of the strategy of focusing on core academics;
- (B) the development and implementation of competency-based education and progress-based assessments; and
- (C) the results being achieved under Subsections (3)(d)(viii)(A) and (B), as measured by individual progress-based assessments and a comparison of Utah students' progress with the progress of students in other states using standardized norm-referenced tests as benchmarks; and

(ix) other statistical and financial information about the school system that the state superintendent considers pertinent;

(e) collecting and organizing education data into an automated decision support system to facilitate school district and school improvement planning, accountability reporting, performance recognition, and the evaluation of educational policy and program effectiveness to include:

(i) data that are:

- (A) comparable across schools and school districts;
- (B) appropriate for use in longitudinal studies; and
- (C) comprehensive with regard to the data elements required under applicable state or federal law or State Board of Education rule;

(ii) features that enable users, most particularly school administrators, teachers, and parents, to:

- (A) retrieve school and school district level data electronically;
- (B) interpret the data visually; and
- (C) draw conclusions that are statistically valid; and

(iii) procedures for the collection and management of education data that:

(A) require the state superintendent to:

- (I) collaborate with school districts and charter schools in designing and implementing uniform data standards and definitions;

- (II) undertake or sponsor research to implement improved methods for analyzing education data;
- (III) provide for data security to prevent unauthorized access to or contamination of the data; and
- (IV) protect the confidentiality of data under state and federal privacy laws; and
- (B) require all school districts and schools to comply with the data collection and management procedures established under Subsection (3)(e);
- (f) administering and implementing federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs; and
- (g) with the approval of the State Board of Education, preparing and submitting to the governor a budget for the State Board of Education to be included in the budget that the governor submits to the Legislature.
- (4) The state superintendent shall distribute funds deposited in the Autism Awareness Restricted Account created in Section 53F-9-401 in accordance with the requirements of Section 53F-9-401.
- (5) Upon leaving office, the state superintendent shall deliver to the state superintendent's successor all books, records, documents, maps, reports, papers, and other articles pertaining to the state superintendent's office.
- (6)
  - (a) For the purposes of Subsection (3)(d)(vi):
    - (i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;
    - (ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;
    - (iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and
    - (iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.
  - (b) The printed copy of the report required by Subsection (3)(d) shall:
    - (i) include the pupil-teacher ratio for:
      - (A) each school district;
      - (B) the charter schools aggregated; and
      - (C) the state's public schools aggregated; and
    - (ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-302 Compensation of state superintendent -- Other board employees.**

- (1) The board shall establish the compensation of the state superintendent.
- (2) The board may, as necessary for the proper administration and supervision of the public school system:
  - (a) appoint other employees; and
  - (b) delegate appropriate duties and responsibilities to board employees.
- (3) The compensation and duties of board employees shall be established by the board and paid from money appropriated for that purpose.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-303 Advice by superintendent -- Written opinions.**

- (1) The state superintendent shall advise superintendents, school boards, and other school officers upon all matters involving the welfare of the schools.
- (2) The superintendent shall, when requested by district superintendents or other school officers, provide written opinions on questions of public education, administrative policy, and procedure, but not upon questions of law.
- (3) Upon request by the state superintendent, the attorney general shall issue written opinions on questions of law.
- (4) Opinions issued under this section shall be considered to be correct and final unless set aside by a court of competent jurisdiction or by subsequent legislation.

Renumbered and Amended by Chapter 1, 2018 General Session

**Part 4  
Powers**

**53E-3-401 Powers of State Board of Education -- Adoption of rules -- Enforcement -- Attorney.**

- (1) As used in this section:
  - (a) "Board" means the State Board of Education.
  - (b) "Education entity" means:
    - (i) an entity that receives a distribution of state funds through a grant program managed by the board under this public education code;
    - (ii) an entity that enters into a contract with the board to provide an educational good or service;
    - (iii) a school district; or
    - (iv) a charter school.
  - (c) "Educational good or service" means a good or service that is required or regulated under:
    - (i) this public education code; or
    - (ii) a rule authorized under this public education code.
  - (d) "Local education agency" or "LEA" means:
    - (i) a school district;
    - (ii) a charter school; or
    - (iii) the Utah Schools for the Deaf and the Blind.
- (2)
  - (a) The State Board of Education has general control and supervision of the state's public education system.
  - (b) "General control and supervision" as used in Utah Constitution, Article X, Section 3, means directed to the whole system.
- (3) The board may not govern, manage, or operate school districts, institutions, and programs, unless granted that authority by statute.
- (4)

- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules to execute the board's duties and responsibilities under the Utah Constitution and state law.
  - (b) The board may delegate the board's statutory duties and responsibilities to board employees.
- (5)
- (a) The board may sell any interest it holds in real property upon a finding by the board that the property interest is surplus.
  - (b) The board may use the money it receives from a sale under Subsection (5)(a) for capital improvements, equipment, or materials, but not for personnel or ongoing costs.
  - (c) If the property interest under Subsection (5)(a) was held for the benefit of an agency or institution administered by the board, the money may only be used for purposes related to the agency or institution.
  - (d) The board shall advise the Legislature of any sale under Subsection (5)(a) and related matters during the next following session of the Legislature.
- (6) The board shall develop policies and procedures related to federal educational programs in accordance with Part 8, Implementing Federal or National Education Programs.
- (7) On or before December 31, 2010, the State Board of Education shall review mandates or requirements provided for in board rule to determine whether certain mandates or requirements could be waived to remove funding pressures on public schools on a temporary basis.
- (8)
- (a) If an education entity violates this public education code or rules authorized under this public education code, the board may, in accordance with the rules described in Subsection (8)(c):
    - (i) require the education entity to enter into a corrective action agreement with the board;
    - (ii) temporarily or permanently withhold state funds from the education entity;
    - (iii) require the education entity to pay a penalty; or
    - (iv) require the education entity to reimburse specified state funds to the board.
  - (b) Except for temporarily withheld funds, if the board collects state funds under Subsection (8)(a), the board shall pay the funds into the Uniform School Fund.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules:
    - (i) that require notice and an opportunity to be heard for an education entity affected by a board action described in Subsection (8)(a); and
    - (ii) to administer this Subsection (8).
  - (d)
    - (i) An individual may bring a violation of statute or board rule to the attention of the board in accordance with a process described in rule adopted by the board.
    - (ii) If the board identifies a violation of statute or board rule as a result of the process described in Subsection (8)(d)(i), the board may take action in accordance with this section.
  - (e) The board shall report criminal conduct of an education entity to the district attorney of the county where the education entity is located.
- (9) The board may audit the use of state funds by an education entity that receives those state funds as a distribution from the board.
- (10) The board may require, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that if an LEA contracts with a third party contractor for an educational good or service, the LEA shall require in the contract that the third party contractor shall provide, upon request of the LEA, information necessary for the LEA to verify that the educational good or service complies with:
- (a) this public education code; and

- (b) board rule authorized under this public education code.
- (11)
  - (a) The board may appoint an attorney to provide legal advice to the board and coordinate legal affairs for the board and the board's employees.
  - (b) An attorney described in Subsection (11)(a) shall cooperate with the Office of the Attorney General.
  - (c) An attorney described in Subsection (11)(a) may not:
    - (i) conduct litigation;
    - (ii) settle claims covered by the Risk Management Fund created in Section 63A-4-201; or
    - (iii) issue formal legal opinions.
- (12) The board shall ensure that any training or certification that an employee of the public education system is required to complete under this title or by rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 200, 2018 General Session  
Amended by Chapter 383, 2018 General Session

**53E-3-402 Acceptance of gifts, endowments, devises, and bequests.**

- (1) The State Board of Education, on its own behalf or on behalf of an educational institution for which the board is the direct governing body, may accept private grants, loans, gifts, endowments, devises, or bequests which are made for educational purposes.
- (2) These contributions are not subject to appropriation by the Legislature.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-403 Establishment of public education foundations -- Powers and duties -- Tax exempt status.**

- (1) The State Board of Education, a local school board, or the Utah Schools for the Deaf and Blind may establish foundations to:
  - (a) assist in the development and implementation of programs to promote educational excellence; and
  - (b) assist in the accomplishment of other education-related objectives.
- (2) A foundation established under Subsection (1):
  - (a) may solicit and receive contributions from private enterprises for the purpose of this section;
  - (b) shall comply with Title 51, Chapter 7, State Money Management Act, and rules made under the act;
  - (c) has no power or authority to incur contractual obligations or liabilities that constitute a claim against public funds except as provided in this section;
  - (d) may not exercise executive, administrative, or rulemaking authority over the programs described in this section, except to the extent specifically authorized by the responsible school board;
  - (e) is exempt from all taxes levied by the state or any of its political subdivisions with respect to activities conducted under this section;
  - (f) may participate in the Risk Management Fund under Section 63A-4-204;
  - (g) shall provide a school with information detailing transactions and balances of funds managed for that school;

- (h) shall, for foundation accounts from which money is distributed to schools, provide all the schools within a school district information that:
  - (i) details account transactions; and
  - (ii) shows available balances in the accounts; and
- (i) may not:
  - (i) engage in lobbying activities;
  - (ii) attempt to influence legislation; or
  - (iii) participate in any campaign activity for or against:
    - (A) a political candidate; or
    - (B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.
- (3) A local school board that establishes a foundation under Subsection (1) shall:
  - (a) require the foundation to:
    - (i) use the school district's accounting system; or
    - (ii) follow written accounting policies established by the board;
  - (b) review and approve the foundation's accounting, purchasing, and check issuance policies to ensure that there is an adequate separation of responsibilities; and
  - (c) approve procedures to verify that issued foundation payments have been properly approved.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Part 5**

### **Miscellaneous Duties**

#### **53E-3-501 State Board of Education to establish miscellaneous minimum standards for public schools.**

- (1) The State Board of Education shall establish rules and minimum standards for the public schools that are consistent with this public education code, including rules and minimum standards governing the following:
  - (a)
    - (i) the qualification and certification of educators and ancillary personnel who provide direct student services;
    - (ii) required school administrative and supervisory services; and
    - (iii) the evaluation of instructional personnel;
  - (b)
    - (i) access to programs;
    - (ii) attendance;
    - (iii) competency levels;
    - (iv) graduation requirements; and
    - (v) discipline and control;
  - (c)
    - (i) school accreditation;
    - (ii) the academic year;
    - (iii) alternative and pilot programs;
    - (iv) curriculum and instruction requirements;
    - (v) school libraries; and

- (vi) services to:
  - (A) persons with a disability as defined by and covered under:
    - (I) the Americans with Disabilities Act of 1990, 42 U.S.C. 12102;
    - (II) the Rehabilitation Act of 1973, 29 U.S.C. 705(20)(A); and
    - (III) the Individuals with Disabilities Education Act, 20 U.S.C. 1401(3); and
  - (B) other special groups;
- (d)
  - (i) state reimbursed bus routes;
  - (ii) bus safety and operational requirements; and
  - (iii) other transportation needs; and
- (e)
  - (i) school productivity and cost effectiveness measures;
  - (ii) federal programs;
  - (iii) school budget formats; and
  - (iv) financial, statistical, and student accounting requirements.
- (2) The State Board of Education shall determine if:
  - (a) the minimum standards have been met; and
  - (b) required reports are properly submitted.
- (3) The State Board of Education may apply for, receive, administer, and distribute to eligible applicants funds made available through programs of the federal government.
- (4)
  - (a) A technical college listed in Section 53B-2a-105 shall provide competency-based career and technical education courses that fulfill high school graduation requirements, as requested and authorized by the State Board of Education.
  - (b) A school district may grant a high school diploma to a student participating in a course described in Subsection (4)(a) that is provided by a technical college listed in Section 53B-2a-105.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-502 State Board of Education assistance to districts and schools.**

In order to assist school districts and individual schools in acquiring and maintaining the characteristics set forth in Section 53E-2-302, the State Board of Education shall:

- (1) provide the framework for an education system, including core competency standards and their assessment, in which school districts and public schools permit students to advance by demonstrating competency in subject matter and mastery of skills;
- (2) conduct a statewide public awareness program on competency-based educational systems;
- (3) compile and publish, for the state as a whole, a set of educational performance indicators describing trends in student performance;
- (4) promote a public education climate of high expectations and academic excellence;
- (5) disseminate successful site-based decision-making models to districts and schools and provide teacher professional development opportunities and evaluation programs for site-based plans consistent with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b);
- (6) provide a mechanism for widespread dissemination of information about strategic planning for public education, including involvement of business and industry in the education process, in order to ensure the understanding and support of all the individuals and groups concerned with the mission of public education as outlined in Section 53E-2-301;

- (7) provide for a research and development clearing house at the state level to receive and share with school districts and public schools information on effective and innovative practices and programs in education;
- (8) help school districts develop and implement guidelines, strategies, and professional development programs for administrators and teachers consistent with Subsections 53E-2-302(7) and 53E-6-103(2)(a) and (b) focused on improving interaction with parents and promoting greater parental involvement in the public schools; and
- (9) in concert with the State Board of Regents and the state's colleges of education review and revise teacher licensing requirements to be consistent with teacher preparation for participation in personalized education programs within the public schools.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-503 Education of individuals in custody of or receiving services from certain state agencies -- Establishment of coordinating council -- Advisory councils.**

- (1) For purposes of this section, "board" means the State Board of Education.
- (2)
  - (a) The board is directly responsible for the education of all individuals who are:
    - (i)
      - (A) younger than 21 years old; or
      - (B) students with disabilities entitled to a free, appropriate public education as described in Section 53E-7-202; and
    - (ii)
      - (A) receiving services from the Department of Human Services;
      - (B) in the custody of an equivalent agency of a Native American tribe recognized by the United States Bureau of Indian Affairs and whose custodial parent or legal guardian resides within the state; or
      - (C) being held in a juvenile detention facility.
  - (b) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to provide for the distribution of funds for the education of individuals described in Subsection (2)(a).
- (3) Subsection (2)(a)(ii)(B) does not apply to an individual taken into custody for the primary purpose of obtaining access to education programs provided for youth in custody.
- (4) The board shall, where feasible, contract with school districts or other appropriate agencies to provide educational, administrative, and supportive services, but the board shall retain responsibility for the programs.
- (5) The Legislature shall establish and maintain separate education budget categories for youth in custody or who are under the jurisdiction of the following state agencies:
  - (a) detention centers and the Divisions of Juvenile Justice Services and Child and Family Services;
  - (b) the Division of Substance Abuse and Mental Health; and
  - (c) the Division of Services for People with Disabilities.
- (6)
  - (a) The Department of Human Services and the board shall appoint a coordinating council to plan, coordinate, and recommend budget, policy, and program guidelines for the education and treatment of persons in the custody of the Division of Juvenile Justice Services and the Division of Child and Family Services.



- (b) The Department of Human Services and the board may appoint similar councils for those in the custody of the Division of Substance Abuse and Mental Health or the Division of Services for People with Disabilities.
- (7) A school district contracting to provide services under Subsection (4) shall establish an advisory council to plan, coordinate, and review education and treatment programs for individuals held in custody in the district.

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 75, 2018 General Session

**53E-3-504 Child literacy program -- Coordinated activities.**

- (1) The State Board of Education, through the state superintendent of public instruction, shall provide for a public service campaign to educate parents on the importance of providing their children with opportunities to develop emerging literacy skills through a statewide "Read to Me" program.
- (2) The board shall coordinate its activities under this section with other state and community entities that are engaged in child literacy programs in order to maximize its efforts and resources, including the Utah Commission on National and Community Service.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-505 Financial and economic literacy education.**

- (1) As used in this section:
  - (a) "Financial and economic activities" include activities related to the topics listed in Subsection (1)(b).
  - (b) "Financial and economic literacy concepts" include concepts related to the following topics:
    - (i) basic budgeting;
    - (ii) saving and financial investments;
    - (iii) banking and financial services, including balancing a checkbook or a bank account and online banking services;
    - (iv) career management, including earning an income;
    - (v) rights and responsibilities of renting or buying a home;
    - (vi) retirement planning;
    - (vii) loans and borrowing money, including interest, credit card debt, predatory lending, and payday loans;
    - (viii) insurance;
    - (ix) federal, state, and local taxes;
    - (x) charitable giving;
    - (xi) online commerce;
    - (xii) identity fraud and theft;
    - (xiii) negative financial consequences of gambling;
    - (xiv) bankruptcy;
    - (xv) free markets and prices;
    - (xvi) supply and demand;
    - (xvii) monetary and fiscal policy;
    - (xviii) effective business plan creation, including using economic analysis in creating a plan;
    - (xix) scarcity and choices;
    - (xx) opportunity cost and tradeoffs;

- (xxi) productivity;
- (xxii) entrepreneurship; and
- (xxiii) economic reasoning.
- (c) "Financial and economic literacy passport" means a document that tracks mastery of financial and economic literacy concepts and completion of financial and economic activities in kindergarten through grade 12.
- (d) "General financial literacy course" means the course of instruction described in Section 53E-4-204.
- (2) The State Board of Education shall:
  - (a) in cooperation with interested private and nonprofit entities:
    - (i) develop a financial and economic literacy passport that students may elect to complete;
    - (ii) develop methods of encouraging parent and educator involvement in completion of the financial and economic literacy passport; and
    - (iii) develop and implement appropriate recognition and incentives for students who complete the financial and economic literacy passport, including:
      - (A) a financial and economic literacy endorsement on the student's diploma of graduation;
      - (B) a specific designation on the student's official transcript; and
      - (C) any incentives offered by community partners;
  - (b) more fully integrate existing and new financial and economic literacy education into instruction in kindergarten through grade 12 by:
    - (i) coordinating financial and economic literacy instruction with existing instruction in other areas of the core standards for Utah public schools, such as mathematics and social studies;
    - (ii) using curriculum mapping;
    - (iii) creating training materials and staff development programs that:
      - (A) highlight areas of potential coordination between financial and economic literacy education and other core standards for Utah public schools concepts; and
      - (B) demonstrate specific examples of financial and economic literacy concepts as a way of teaching other core standards for Utah public schools concepts; and
    - (iv) using appropriate financial and economic literacy assessments to improve financial and economic literacy education and, if necessary, developing assessments;
  - (c) work with interested public, private, and nonprofit entities to:
    - (i) identify, and make available to teachers, online resources for financial and economic literacy education, including modules with interactive activities and turnkey instructor resources;
    - (ii) coordinate school use of existing financial and economic literacy education resources;
    - (iii) develop simple, clear, and consistent messaging to reinforce and link existing financial literacy resources;
    - (iv) coordinate the efforts of school, work, private, nonprofit, and other financial education providers in implementing methods of appropriately communicating to teachers, students, and parents key financial and economic literacy messages; and
    - (v) encourage parents and students to establish higher education savings, including a Utah Educational Savings Plan account;
  - (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to develop guidelines and methods for school districts and charter schools to more fully integrate financial and economic literacy education into other core standards for Utah public schools courses;
  - (e)
    - (i) contract with a provider, through a request for proposals process, to develop an online, end-of-course assessment for the general financial literacy course;

- (ii) require a school district or charter school to administer an online, end-of-course assessment to a student who takes the general financial literacy course; and
  - (iii) develop a plan, through the state superintendent of public instruction, to analyze the results of an online, end-of-course assessment in general financial literacy that includes:
    - (A) an analysis of assessment results by standard; and
    - (B) average scores statewide and by school district and school; and
  - (f) in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide opportunities for professional development in financial and economic literacy to teachers, including:
    - (i) a statewide learning community for financial and economic literacy;
    - (ii) summer workshops; and
    - (iii) online videos of experts in the field of financial and economic literacy education.
- (3)
- (a) The State Board of Education shall establish a task force to study and make recommendations to the board on how to improve financial and economic literacy education in the public school system.
  - (b) The task force membership shall include representatives of:
    - (i) the State Board of Education;
    - (ii) school districts and charter schools;
    - (iii) the State Board of Regents; and
    - (iv) private or public entities that teach financial education and share a commitment to empower individuals and families to achieve economic stability, opportunity, and upward mobility.
  - (c) The task force shall reconvene every three years to review and recommend adjustments to the standards and objectives of the general financial literacy course.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 22, 2018 General Session

**53E-3-506 Educational program on the use of information technology.**

- (1) The State Board of Education shall provide for an educational program on the use of information technology, which shall be offered by high schools.
- (2) An educational program on the use of information technology shall:
  - (a) provide instruction on skills and competencies essential for the workplace and requested by employers;
  - (b) include the following components:
    - (i) a curriculum;
    - (ii) online access to the curriculum;
    - (iii) instructional software for classroom and student use;
    - (iv) certification of skills and competencies most frequently requested by employers;
    - (v) professional development for teachers; and
    - (vi) deployment and program support, including integration with existing core standards for Utah public schools; and
  - (c) be made available to high school students, faculty, and staff.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-507 Powers of the board.**

The State Board of Education:

- (1) shall establish minimum standards for career and technical education programs in the public education system;
- (2) may apply for, receive, administer, and distribute funds made available through programs of federal and state governments to promote and aid career and technical education;
- (3) shall cooperate with federal and state governments to administer programs that promote and maintain career and technical education;
- (4) shall cooperate with the Utah System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern to ensure that students in the public education system have access to career and technical education at Utah System of Technical Colleges technical colleges, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern;
- (5) shall require that before a minor student may participate in clinical experiences as part of a health care occupation program at a high school or other institution to which the student has been referred, the student's parent or legal guardian has:
  - (a) been first given written notice through appropriate disclosure when registering and prior to participation that the program contains a clinical experience segment in which the student will observe and perform specific health care procedures that may include personal care, patient bathing, and bathroom assistance; and
  - (b) provided specific written consent for the student's participation in the program and clinical experience; and
- (6) shall, after consulting with school districts, charter schools, the Utah System of Technical Colleges Board of Trustees, Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern, prepare and submit an annual report to the governor and to the Legislature's Education Interim Committee by October 31 of each year detailing:
  - (a) how the career and technical education needs of secondary students are being met; and
  - (b) the access secondary students have to programs offered:
    - (i) at technical colleges; and
    - (ii) within the regions served by Salt Lake Community College's School of Applied Technology, Snow College, and Utah State University Eastern.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-508 Rulemaking -- Standards for high quality programs operating outside of the regular school day.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the Department of Workforce Services, the State Board of Education shall make rules that describe the standards for a high quality program operating outside of the regular school day:
  - (a) for elementary or secondary students; and
  - (b) offered by a:
    - (i) school district;
    - (ii) charter school;
    - (iii) private provider, including a non-profit provider; or
    - (iv) municipality.
- (2) The standards described in Subsection (1) shall specify that a high quality program operating outside of the regular school day:

- (a) provides a safe, healthy, and nurturing environment for all participants;
- (b) develops and maintains positive relationships among staff, participants, families, schools, and communities;
- (c) encourages participants to learn new skills; and
- (d) is effectively administered.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-509 Gang prevention and intervention policies.**

- (1)
  - (a) The State Board of Education shall adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction.
  - (b) The rules described in Subsection (1)(a) shall provide that the gang prevention and intervention policies of a local school board or charter school governing board may include provisions that reflect the individual school district's or charter school's unique needs or circumstances.
- (2) The rules described in Subsection (1) may include the following provisions:
  - (a) school faculty and personnel shall report suspected gang activities relating to the school and its students to a school administrator and law enforcement;
  - (b) a student who participates in gang activities may be excluded from participation in extracurricular activities, including interscholastic athletics, as determined by the school administration after consultation with law enforcement;
  - (c) gang-related graffiti or damage to school property shall result in parent or guardian notification and appropriate administrative and law enforcement actions, which may include obtaining restitution from those responsible for the damage;
  - (d) if a serious gang-related incident, as determined by the school administrator in consultation with local law enforcement, occurs on school property, at school related activities, or on a site that is normally considered to be under school control, notification shall be provided to parents and guardians of students in the school:
    - (i) informing them, in general terms, about the incident, but removing all personally identifiable information about students from the notice;
    - (ii) emphasizing the school's concern for safety; and
    - (iii) outlining the action taken at the school regarding the incident;
  - (e) school faculty and personnel shall be trained by experienced evidence based trainers that may include community gang specialists and law enforcement as part of comprehensive strategies to recognize early warning signs for youth in trouble and help students resist serious involvement in undesirable activity, including joining gangs or mimicking gang behavior;
  - (f) prohibitions on the following behavior:
    - (i) advocating or promoting a gang or any gang-related activities;
    - (ii) marking school property, books, or school work with gang names, slogans, or signs;
    - (iii) conducting gang initiations;
    - (iv) threatening another person with bodily injury or inflicting bodily injury on another in connection with a gang or gang-related activity;
    - (v) aiding or abetting an activity described under Subsections (2)(f)(i) through (iv) by a person's presence or support;

- (vi) displaying or wearing common gang apparel, common dress, or identifying signs or symbols on one's clothing, person, or personal property that is disruptive to the school environment; and
  - (vii) communicating in any method, including verbal, non-verbal, and electronic means, designed to convey gang membership or affiliation.
- (3) The rules described in Subsection (1) may require a local school board or governing board of a charter school to publicize the policies enacted by the local school board or governing board of a charter school in accordance with the rules described in Subsection (1) to all students, parents, guardians, and faculty through school websites, handbooks, letters to parents and guardians, or other reasonable means of communication.
- (4) The State Board of Education may consult with appropriate committees, including committees that provide opportunities for the input of parents, law enforcement, and community agencies, as it develops, enacts, and administers the rules described in Subsection (1).

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-510 Control of school lunch revenues -- Apportionment -- Costs.**

- (1) School lunch revenues shall be under the control of the State Board of Education and may only be disbursed, transferred, or drawn upon by its order. The revenue may only be used to provide school lunches and a school lunch program in the state's school districts in accordance with standards established by the board.
- (2) The board shall apportion the revenue according to the number of school children receiving school lunches in each school district. The State Board of Education and local school boards shall employ staff to administer and supervise the school lunch program and purchase supplies and equipment.
- (3) The costs of the school lunch program shall be included in the state board's annual budget.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-511 Student Achievement Backpack -- Utah Student Record Store.**

- (1) As used in this section:
- (a) "Authorized LEA user" means a teacher or other person who is:
    - (i) employed by an LEA that provides instruction to a student; and
    - (ii) authorized to access data in a Student Achievement Backpack through the Utah Student Record Store.
  - (b) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.
  - (c) "Statewide assessment" means the same as that term is defined in Section 53E-4-301.
  - (d) "Student Achievement Backpack" means, for a student from kindergarten through grade 12, a complete learner profile that:
    - (i) is in electronic format;
    - (ii) follows the student from grade to grade and school to school; and
    - (iii) is accessible by the student's parent or guardian or an authorized LEA user.
  - (e) "Utah Student Record Store" means a repository of student data collected from LEAs as part of the state's longitudinal data system that is:
    - (i) managed by the State Board of Education;
    - (ii) cloud-based; and
    - (iii) accessible via a web browser to authorized LEA users.
- (2)

- (a) The State Board of Education shall use the State Board of Education's robust, comprehensive data collection system, which collects longitudinal student transcript data from LEAs and the unique student identifiers as described in Section 53E-4-308, to allow the following to access a student's Student Achievement Backpack:
  - (i) the student's parent or guardian; and
  - (ii) each LEA that provides instruction to the student.
- (b) The State Board of Education shall ensure that a Student Achievement Backpack:
  - (i) provides a uniform, transparent reporting mechanism for individual student progress;
  - (ii) provides a complete learner history for postsecondary planning;
  - (iii) provides a teacher with visibility into a student's complete learner profile to better inform instruction and personalize education;
  - (iv) assists a teacher or administrator in diagnosing a student's learning needs through the use of data already collected by the State Board of Education;
  - (v) facilitates a student's parent or guardian taking an active role in the student's education by simplifying access to the student's complete learner profile; and
  - (vi) serves as additional disaster mitigation for LEAs by using a cloud-based data storage and collection system.
- (3) Using existing information collected and stored in the State Board of Education's data warehouse, the State Board of Education shall create the Utah Student Record Store where an authorized LEA user may:
  - (a) access data in a Student Achievement Backpack relevant to the user's LEA or school; or
  - (b) request student records to be transferred from one LEA to another.
- (4) The State Board of Education shall implement security measures to ensure that:
  - (a) student data stored or transmitted to or from the Utah Student Record Store is secure and confidential pursuant to the requirements of the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and
  - (b) an authorized LEA user may only access student data that is relevant to the user's LEA or school.
- (5) A student's parent or guardian may request the student's Student Achievement Backpack from the LEA or the school in which the student is enrolled.
- (6) An authorized LEA user may access student data in a Student Achievement Backpack, which shall include the following data, or request that the data be transferred from one LEA to another:
  - (a) student demographics;
  - (b) course grades;
  - (c) course history; and
  - (d) results of a statewide assessment.
- (7) An authorized LEA user may access student data in a Student Achievement Backpack, which shall include the data listed in Subsections (6)(a) through (d) and the following data, or request that the data be transferred from one LEA to another:
  - (a) section attendance;
  - (b) the name of a student's teacher for classes or courses the student takes;
  - (c) teacher qualifications for a student's teacher, including years of experience, degree, license, and endorsement;
  - (d) results of statewide assessments;
  - (e) a student's writing sample that is written for a writing assessment administered pursuant to Section 53E-4-303;
  - (f) student growth scores on a statewide assessment, as applicable;

- (g) a school's grade assigned pursuant to Chapter 5, Part 2, School Accountability System;
  - (h) results of benchmark assessments of reading administered pursuant to Section 53E-4-307; and
  - (i) a student's reading level at the end of grade 3.
- (8) No later than June 30, 2017, the State Board of Education shall ensure that data collected in the Utah Student Record Store for a Student Achievement Backpack is integrated into each LEA's student information system and is made available to a student's parent or guardian and an authorized LEA user in an easily accessible viewing format.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-512 State board rules establishing basic ethical conduct standards -- Local school board policies.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish basic ethical conduct standards for public education employees who provide education-related services outside of their regular employment to their current or prospective public school students.
- (2) The rules shall provide that a local school board may adopt policies implementing the standards and addressing circumstances present in the district.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-513 Parental permission required for specified in-home programs -- Exceptions.**

- (1) The State Board of Education, local school boards, school districts, and public schools are prohibited from requiring infant or preschool in-home literacy or other educational or parenting programs without obtaining parental permission in each individual case.
- (2) This section does not prohibit the Division of Child and Family Services, within the Department of Human Services, from providing or arranging for family preservation or other statutorily provided services in accordance with Title 62A, Chapter 4a, Child and Family Services, or any other in-home services that have been court ordered, pursuant to Title 62A, Chapter 4a, Child and Family Services, or Title 78A, Chapter 6, Juvenile Court Act.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-515 Hospitality and Tourism Management Career and Technical Education Pilot Program.**

- (1) As used in this section:
  - (a) "Board" means the State Board of Education.
  - (b) "Local education agency" means a school district or charter school.
  - (c) "Pilot program" means the Hospitality and Tourism Management Career and Technical Education Pilot Program created under Subsection (2).
- (2) There is created a Hospitality and Tourism Management Career and Technical Education Pilot Program to provide instruction that a local education agency may offer to a student in any of grades 9 through 12 on:
  - (a) the information and skills required for operational level employee positions in hospitality and tourism management, including:
    - (i) hospitality soft skills;
    - (ii) operational areas of the hospitality industry;



- (iii) sales and marketing; and
  - (iv) safety and security; and
- (b) the leadership and managerial responsibilities, knowledge, and skills required by an entry-level leader in hospitality and tourism management, including:
  - (i) hospitality leadership skills;
  - (ii) operational leadership;
  - (iii) managing food and beverage operations; and
  - (iv) managing business operations.
- (3) The instruction described in Subsection (2) may be delivered in a public school using live instruction, video, or online materials.
- (4)
  - (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the board shall select one or more providers to supply materials and curriculum for the pilot program.
  - (b) The board may seek recommendations from trade associations and other entities that have expertise in hospitality and tourism management regarding potential providers of materials and curriculum for the pilot program.
- (5)
  - (a) A local education agency may apply to the board to participate in the pilot program.
  - (b) The board shall select participants in the pilot program.
  - (c) A local education agency that participates in the pilot program shall use the materials and curriculum supplied by a provider selected under Subsection (4).
- (6) The board shall evaluate the pilot program and provide an annual written report to the Education Interim Committee and the Economic Development and Workforce Services Interim Committee on or before October 1 describing:
  - (a) how many local education agencies and how many students are participating in the pilot program; and
  - (b) any recommended changes to the pilot program.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-516 School disciplinary and law enforcement action report -- Rulemaking authority.**

- (1) As used in this section:
  - (a) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.
  - (b) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.
  - (c) "Minor" means the same as that term is defined in Section 53G-6-201.
  - (d) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:
    - (i) a search and seizure by an SRO;
    - (ii) issuance of a criminal citation;
    - (iii) issuance of a ticket or summons;
    - (iv) filing a delinquency petition; or
    - (v) referral to a probation officer.
  - (e) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.
  - (f)

- (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to local board policy, and satisfies at least one of the following conditions:
    - (A) the activity is managed or supervised by a school district, public school, or public school employee;
    - (B) the activity uses the school district or public school facilities, equipment, or other school resources; or
    - (C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or minimum school program dollars.
  - (ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.
  - (g) "Student resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.
- (2) Beginning on July 1, 2020, the State Board of Education, in collaboration with school districts, charter schools, and law enforcement agencies, shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:
- (a) arrests of a minor;
  - (b) other law enforcement activities; and
  - (c) disciplinary actions.
- (3) The report described in Subsection (2) shall include the following information by school district and charter school:
- (a) the number of arrests of a minor, including the reason why the minor was arrested;
  - (b) the number of other law enforcement activities, including the following information for each incident:
    - (i) the reason for the other law enforcement activity; and
    - (ii) the type of other law enforcement activity used;
  - (c) the number of disciplinary actions imposed, including:
    - (i) the reason for the disciplinary action; and
    - (ii) the type of disciplinary action; and
  - (d) the number of SROs employed.
- (4) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (3)(a) through (c):
- (a) age;
  - (b) grade level;
  - (c) race;
  - (d) sex; and
  - (e) disability status.
- (5) Information included in the annual report described in Subsection (2) shall comply with:
- (a) Chapter 9, Part 3, Student Data Protection Act;
  - (b) Chapter 9, Part 2, Student Privacy; and
  - (c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules to compile the report described in Subsection (2).
- (7) The State Board of Education shall provide the report described in Subsection (2) to the Education Interim Committee before November 1 of each year for incidents that occurred during the previous school year.

Enacted by Chapter 302, 2018 General Session

**53E-3-517 Educator credential database.**

- (1) As used in this section:
  - (a) "Board" means the State Board of Education.
  - (b) "Educator" means the same as that term is defined in Section 53E-6-102.
  - (c) "Educator credential database" means a database used by the board that:
    - (i) contains educator credential information and LEA information; and
    - (ii) is used by the board to determine funding distribution.
  - (d) "Local education agency" or "LEA" means:
    - (i) a charter school;
    - (ii) a school district; or
    - (iii) the Utah Schools for the Deaf and the Blind.
- (2) Before July 1, 2020, the board shall ensure that a technical limitation of the educator credential database does not prevent an educator from accepting employment at more than one LEA.

Enacted by Chapter 73, 2018 General Session

**Part 6  
Audits**

**53E-3-601 Definitions.**

Reserved

Enacted by Chapter 1, 2018 General Session

**53E-3-602 Auditors appointed -- Auditing standards.**

- (1) Procedures utilized by auditors employed by local school boards shall meet or exceed generally accepted auditing standards approved by the State Board of Education and the state auditor.
- (2) The standards must include financial accounting for both revenue and expenditures, and student accounting.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-603 State board to verify audits.**

The State Board of Education is responsible for verifying audits of financial and student accounting records of school districts for purposes of determining the allocation of Uniform School Fund money.

Renumbered and Amended by Chapter 1, 2018 General Session

**Part 7  
School Construction**

**53E-3-701 Definitions.**

Reserved

Enacted by Chapter 1, 2018 General Session

**53E-3-702 Board to adopt public school construction guidelines.**

- (1) As used in this section:
  - (a) "Board" means the State Board of Education.
  - (b) "Public school construction" means construction work on a new public school.
- (2)
  - (a) The board shall:
    - (i) adopt guidelines for public school construction; and
    - (ii) consult with the Division of Facilities Construction and Management Administration on proposed guidelines before adoption.
  - (b) The board shall ensure that guidelines adopted under Subsection (2)(a)(i) maximize funds used for public school construction and reflect efficient and economic use of those funds, including adopting guidelines that address a school's essential needs rather than encouraging or endorsing excessive costs per square foot of construction or nonessential facilities, design, or furnishings.
- (3) Before a school district or charter school may begin public school construction, the school district or charter school shall:
  - (a) review the guidelines adopted by the board under this section; and
  - (b) take into consideration the guidelines when planning the public school construction.
- (4) In adopting the guidelines for public school construction, the board shall consider the following and adopt alternative guidelines as needed:
  - (a) location factors, including whether the school is in a rural or urban setting, and climate factors;
  - (b) variations in guidelines for significant or minimal projected student population growth;
  - (c) guidelines specific to schools that serve various populations and grades, including high schools, junior high schools, middle schools, elementary schools, alternative schools, and schools for people with disabilities; and
  - (d) year-round use.
- (5) The guidelines shall address the following:
  - (a) square footage per student;
  - (b) minimum and maximum required real property for a public school;
  - (c) athletic facilities and fields, playgrounds, and hard surface play areas;
  - (d) cost per square foot;
  - (e) minimum and maximum qualities and costs for building materials;
  - (f) design efficiency;
  - (g) parking;
  - (h) furnishing;
  - (i) proof of compliance with applicable building codes; and
  - (j) safety.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-703 Construction and alteration of schools and plants -- Advertising for bids -- Payment and performance bonds -- Contracts -- Bidding limitations on local school boards -- Interest of local school board members.**

- (1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.
- (2)
  - (a) Prior to the construction of any school or the alteration of any existing school plant, if the total estimated accumulative building project cost exceeds \$80,000, a local school board shall advertise for bids on the project at least 10 days before the bid due date.
  - (b) The advertisement shall state:
    - (i) that proposals for the building project are required to be sealed in accordance with plans and specifications provided by the local school board;
    - (ii) where and when the proposals will be opened;
    - (iii) that the local school board reserves the right to reject any and all proposals; and
    - (iv) that a person that submits a proposal is required to submit a certified check or bid bond, of not less than 5% of the bid in the proposal, to accompany the proposal.
  - (c) The local school board shall publish the advertisement, at a minimum:
    - (i) on the local school board's website; or
    - (ii) on a state website that is:
      - (A) owned or managed by, or provided under contract with, the Division of Purchasing and General Services; and
      - (B) available for the posting of public procurement notices.
- (3)
  - (a) The board shall meet at the time and place specified in the advertisement and publicly open and read all received proposals.
  - (b) If satisfactory bids are received, the board shall award the contract to the lowest responsible bidder.
  - (c) If none of the proposals are satisfactory, all shall be rejected.
  - (d) The board shall again advertise in the manner provided in this section.
  - (e) If, after advertising a second time no satisfactory bid is received, the board may proceed under its own direction with the required project.
- (4)
  - (a) The check or bond required under Subsection (2)(b) shall be drawn in favor of the local school board.
  - (b) If the successful bidder fails or refuses to enter into the contract and furnish the additional bonds required under this section, then the bidder's check or bond is forfeited to the district.
- (5) A local school board shall require payment and performance bonds of the successful bidder as required in Section 63G-6a-1103.
- (6)
  - (a) A local school board may require in the proposed contract that up to 5% of the contract price be withheld until the project is completed and accepted by the board.
  - (b) If money is withheld, the board shall place it in an interest bearing account, and the interest accrues for the benefit of the contractor and subcontractors.
  - (c) This money shall be paid upon completion of the project and acceptance by the board.
- (7)
  - (a) A local school board may not bid on projects within the district if the total accumulative estimated cost exceeds \$80,000.
  - (b) The board may use its resources if no satisfactory bids are received under this section.
- (8) If the local school board determines in accordance with Section 63G-6a-1302 to use a construction manager/general contractor as its method of construction contracting management

on projects where the total estimated accumulative cost exceeds \$80,000, it shall select the construction manager/general contractor in accordance with the requirements of Title 63G, Chapter 6a, Utah Procurement Code.

- (9) A local school board member may not have a direct or indirect financial interest in the construction project contract.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-704 Restrictions on local school district procurement of architect-engineer services.**

- (1) As used in this section, "architect-engineer services" means those professional services within the scope of the practice of architecture as defined in Section 58-3a-102, or professional engineering as defined in Section 58-22-102.
- (2) When a local school district elects to obtain architect or engineering services by using a competitive procurement process and has provided public notice of its competitive procurement process:
- (a) a higher education entity, or any part of one, may not submit a proposal in response to the state agency's competitive procurement process; and
  - (b) the local school district may not award a contract to perform the architect or engineering services solicited in the competitive procurement process to a higher education entity or any part of one.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-705 School plant capital outlay report.**

- (1) The State Board of Education shall prepare an annual school plant capital outlay report of all school districts, which includes information on the number and size of building projects completed and under construction.
- (2) A school district or charter school shall prepare and submit an annual school plant capital outlay report in accordance with Section 63A-3-402.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-706 Enforcement of part by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.**

- (1) The state superintendent of public instruction shall enforce this part.
- (2) The superintendent may employ architects or other qualified personnel, or contract with the State Building Board, the state fire marshal, or a local governmental entity to:
- (a) examine the plans and specifications of any school building or alteration submitted under this part;
  - (b) verify the inspection of any school building during or following construction; and
  - (c) perform other functions necessary to ensure compliance with this part.
- (3)
- (a)
    - (i) If a local school board uses the school district's building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the State

Board of Education, advising those entities that the school district has complied with the inspection provisions of this part.

- (ii) If a charter school uses a school district building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the State Board of Education a certificate of inspection verification.
- (iii) If a local school board or charter school uses a local governmental entity's building inspector under Subsection 10-9a-305(6)(a)(i) or 17-27a-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the State Board of Education a certificate of inspection verification.
- (iv)
  - (A) If a local school board or charter school uses an independent, certified building inspector under Subsection 10-9a-305(6)(a)(iii) or 17-27a-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file with the State Board of Education a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.
  - (B) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection (3)(a)(iv)(A), the school district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.
  - (C) Within 30 days after the local school board or charter school files a request under Subsection (3)(a)(iv)(A) for a certificate authorizing permanent occupancy of the school building, the state superintendent of public instruction shall:
    - (I)
      - (Aa) issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or
      - (Bb) deliver to the local school board or charter school a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection provisions of this part; and
    - (II) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.
  - (D) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection (3)(a)(iv)(C)(I)(Bb) and notifying the state superintendent of public instruction that the deficiencies have been remedied, the state superintendent of public instruction shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.
  - (E)
    - (I) The state superintendent of public instruction may charge the school district or charter school a fee for an inspection that the superintendent considers necessary to enable the superintendent to issue a certificate authorizing permanent occupancy of the school building.
    - (II) A fee under Subsection (3)(a)(iv)(E)(I) may not exceed the actual cost of performing the inspection.
- (b) For purposes of this Subsection (3):

- (i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and
- (ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-707 School building construction and inspection manual -- Annual construction and inspection conference -- Verification of school construction inspections.**

- (1)
  - (a) The State Board of Education, through the state superintendent of public instruction, shall develop and distribute to each school district a school building construction and inspection resource manual.
  - (b) The manual shall be provided to a charter school upon request of the charter school.
- (2)
  - (a) The manual shall include:
    - (i) current legal requirements; and
    - (ii) information on school building construction and inspections, including the guidelines adopted by the State Board of Education in accordance with Section 53E-3-702.
  - (b) The state superintendent shall review and update the manual at least once every three years.
- (3) The board shall provide for an annual school construction conference to allow a representative from each school district and charter school to:
  - (a) receive current information on the design, construction, and inspection of school buildings;
  - (b) receive training on such matters as:
    - (i) using properly certified building inspectors;
    - (ii) filing construction inspection summary reports and the final inspection certification with the local governmental authority's building official;
    - (iii) the roles and relationships between a school district or charter school and the local governmental authority, either a county or municipality, as related to the construction and inspection of school buildings; and
    - (iv) adequate documentation of school building inspections; and
  - (c) provide input on any changes that may be needed to improve the existing school building inspection program.
- (4) The board shall develop a process to verify that inspections by qualified inspectors occur in each school district or charter school.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-708 Licensed architect to prepare plans.**

A licensed architect shall prepare the plans and specifications for the construction or alteration of school buildings.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-709 Power of board regarding expected federal aid to build schools.**



For the purpose of participating in any program of assistance by the government of the United States designed to aid the various states, their political subdivisions and their educational agencies and institutions in providing adequate educational buildings and facilities, the State Board of Education, with the approval of the governor, may do the following:

- (1) It may develop and implement plans relating to the building of educational buildings for the use and benefit of school districts and educational institutions and agencies of the state. These plans may conform to the requirements of federal legislation to such extent as the board finds necessary to qualify the state and its educational subdivisions, agencies, and institutions for federal educational building grants-in-aid.
- (2) It may enter into agreements on behalf of the state, its school districts, and its educational agencies and institutions with the federal government and its agencies, and with the school districts, educational agencies, and institutions of the state, as necessary to comply with federal legislation and to secure for them rights of participation as necessary to fulfill the educational building needs of the state.
- (3) It may accept, allocate, disburse, and otherwise deal with federal funds or other assets that are available for buildings from any federal legislation or program of assistance among the school districts, public educational agencies, and other public institutions eligible to participate in those programs.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-710 Notification to affected entities of intent to acquire school site or construction of school building -- Local government -- Negotiation of fees -- Confidentiality.**

- (1)
  - (a) A school district or charter school shall notify the following without delay prior to the acquisition of a school site or construction of a school building of the school district's or charter school's intent to acquire or construct:
    - (i) an affected local governmental entity;
    - (ii) the Department of Transportation; and
    - (iii) as defined in Section 54-2-1, an electrical corporation, gas corporation, or telephone corporation that provides service or maintains infrastructure within the immediate area of the proposed site.
  - (b)
    - (i) Representatives of the local governmental entity, Department of Transportation, and the school district or charter school shall meet as soon as possible after the notification under Subsection (1)(a) takes place in order to:
      - (A) subject to Subsection (1)(b)(ii), review information provided by the school district or charter school about the proposed acquisition;
      - (B) discuss concerns that each may have, including potential community impacts and site safety;
      - (C) assess the availability of infrastructure for the site; and
      - (D) discuss any fees that might be charged by the local governmental entity in connection with a building project.
    - (ii) The school district or charter school shall provide for review under Subsection (1)(b)(i) the following information, if available, regarding the proposed acquisition:
      - (A) potential community impacts;
      - (B) approximate lot size;
      - (C) approximate building size and use;

- (D) estimated student enrollment;
  - (E) proposals for ingress and egress, parking, and fire lane location; and
  - (F) building footprint and location.
- (2)
- (a) After the purchase or an acquisition, but before construction begins:
    - (i) representatives of the local governmental entity and the school district or charter school shall meet as soon as possible to review a rough proposed site plan provided by the school district or charter school, review the information listed in Subsection (1)(b)(ii), and negotiate any fees that might be charged by the local governmental entity in connection with a building project;
    - (ii)
      - (A) the school district or charter school shall submit the rough proposed site plan to the local governmental entity's design review committee for comments; and
      - (B) subject to the priority requirement of Subsection 10-9a-305(7)(b), the local governmental entity's design review committee shall provide comments on the rough proposed site plan to the school district or charter school no later than 30 days after the day that the plan is submitted to the design review committee in accordance with this Subsection (2)(a)(ii); and
    - (iii) the local governmental entity may require that the school district or charter school provide a traffic study by an independent third party qualified to perform the study if the local governmental entity determines that traffic flow, congestion, or other traffic concerns may require the study if otherwise permitted under Subsection 10-9a-305(3)(b).
  - (b) A review conducted by or comment provided by a local governmental entity design review committee under Subsection (2)(a) may not be interpreted as an action that completes a land use application for the purpose of entitling the school district or charter school to a substantive land use review of a land use application under Section 10-9a-509 or 17-27a-508.
- (3) A local governmental entity may not increase a previously agreed-upon fee after the district or charter school has signed contracts to begin construction.
- (4) Prior to the filing of a formal application by the affected school district or charter school, a local governmental entity may not disclose information obtained from a school district or charter school regarding the district's or charter school's consideration of, or intent to, acquire a school site or construct a school building, without first obtaining the consent of the district or charter school.
- (5) Prior to beginning construction on a school site, a school district or charter school shall submit to the Department of Transportation a child access routing plan as described in Section 53G-4-402.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-711 Required contract terms.**

A contract for the construction of a school building shall contain a clause that addresses the rights of the parties when, after the contract is executed, site conditions are discovered that:

- (1) the contractor did not know existed, and could not have reasonably known existed, at the time that the contract was executed; and
- (2) materially impacts the costs of construction.

Renumbered and Amended by Chapter 1, 2018 General Session

## Part 8

### Implementing Federal or National Education Programs

#### **53E-3-801 Definitions.**

As used in this part:

- (1)
  - (a) "Cost" means an estimation of state and local money required to implement a federal education agreement or national program.
  - (b) "Cost" does not include capital costs associated with implementing a federal education agreement or national program.
- (2) "Education entities" means the entities that may bear the state and local costs of implementing a federal program or national program, including:
  - (a) the State Board of Education;
  - (b) the state superintendent of public instruction;
  - (c) a local school board;
  - (d) a school district and its schools;
  - (e) a charter school governing board; and
  - (f) a charter school.
- (3) "Federal education agreement" means a legally binding document or representation that requires a school official to implement a federal program or set of requirements that originates from the U.S. Department of Education and that has, as a primary focus, an impact on the educational services at a district or charter school.
- (4) "Federal programs" include:
  - (a) the No Child Left Behind Act;
  - (b) the Individuals with Disabilities Education Act Amendments of 1997, Public Law 105-17, and subsequent amendments; and
  - (c) other federal educational programs.
- (5) "National program" means a national or multi-state education program, agreement, or standards that:
  - (a) originated from, or were received directly or indirectly from, a national or multi-state organization, coalition, or compact;
  - (b) have, as a primary focus, an impact on the educational services at a public school; and
  - (c) are adopted by the State Board of Education or state superintendent of public instruction with the intent to cause a local school official to implement the national or multi-state education program, agreement, or standards.
- (6) "No Child Left Behind Act" means the No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6301 et seq.
- (7) "School official" includes:
  - (a) the State Board of Education;
  - (b) the state superintendent;
  - (c) employees of the State Board of Education and the state superintendent;
  - (d) local school boards;
  - (e) school district superintendents and employees; and
  - (f) charter school board members, administrators, and employees.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-802 Federal programs -- School official duties.**

- (1) School officials may:
  - (a) apply for, receive, and administer funds made available through programs of the federal government;
  - (b) only expend federal funds for the purposes for which they are received and are accounted for by the state, school district, or charter school; and
  - (c) reduce or eliminate a program created with or expanded by federal funds to the extent allowed by law when federal funds for that program are subsequently reduced or eliminated.
- (2) School officials shall:
  - (a) prioritize resources, especially to resolve conflicts between federal provisions or between federal and state programs, including:
    - (i) providing first priority to meeting state goals, objectives, program needs, and accountability systems as they relate to federal programs; and
    - (ii) subject to Subsection (4), providing second priority to implementing federal goals, objectives, program needs, and accountability systems that do not directly and simultaneously advance state goals, objectives, program needs, and accountability systems;
  - (b) interpret the provisions of federal programs in the best interest of students in this state;
  - (c) maximize local control and flexibility;
  - (d) minimize additional state resources that are diverted to implement federal programs beyond the federal money that is provided to fund the programs;
  - (e) request changes to federal educational programs, especially programs that are underfunded or provide conflicts with other state or federal programs, including:
    - (i) federal statutes;
    - (ii) federal regulations; and
    - (iii) other federal policies and interpretations of program provisions; and
  - (f) seek waivers from all possible federal statutes, requirements, regulations, and program provisions from federal education officials to:
    - (i) maximize state flexibility in implementing program provisions; and
    - (ii) receive reasonable time to comply with federal program provisions.
- (3) The requirements of school officials under this part, including the responsibility to lobby federal officials, are not intended to mandate school officials to incur costs or require the hiring of lobbyists, but are intended to be performed in the course of school officials' normal duties.
- (4)
  - (a) As used in this Subsection (4):
    - (i) "Available Education Fund revenue surplus" means the Education Fund revenue surplus after the statutory transfers and set-asides described in Section 63J-1-313.
    - (ii) "Education Fund revenue surplus" means the same as that term is defined in Section 63J-1-313.
  - (b) Before prioritizing the implementation of a future federal goal, objective, program need, or accountability system that does not directly and simultaneously advance a state goal, objective, program need, or accountability system, the State Board of Education may:
    - (i) determine the financial impact of failure to implement the federal goal, objective, program need, or accountability system; and
    - (ii) if the State Board of Education determines that failure to implement the federal goal, objective, program need, or accountability system may result in a financial loss, request that the Legislature mitigate the financial loss.

- (c) A mitigation requested under Subsection (4)(b)(ii) may include appropriating available Education Fund revenue surplus through an appropriations act, including an appropriations act passed during a special session called by the governor or a general session.
- (d) This mitigation option is in addition to and does not restrict or conflict with the state's authority provided in this part.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-803 Notice of voidableness of federal education agreements or national programs.**

A federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, that is executed by a school official in violation of this part, is voidable by the governor or the Legislature as provided in this part.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-804 Governor to approve federal education agreements or national programs.**

- (1) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$500,000 annually from state and local money to implement, a school official shall submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection.
- (2) The governor shall approve or reject each federal education agreement or national program.
- (3)
  - (a) If the governor approves the federal education agreement or national program, the school official may execute the agreement.
  - (b) If the governor rejects the federal education agreement or national program, the school official may not execute the agreement.
- (4) If a school official executes a federal education agreement or national program without obtaining the governor's approval under this section, the governor may issue an executive order declaring the federal education agreement or national program void.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-805 Legislative review and approval of federal education agreements or national programs.**

- (1)
  - (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$1,000,000 annually from state and local money to implement, the school official shall:
    - (i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section 53E-3-804; and
    - (ii) if the governor approves the federal education agreement or national program, submit the federal education agreement to the Executive Appropriations Committee of the Legislature for its review and recommendations.
  - (b) The Executive Appropriations Committee shall review the federal education agreement or national program and may:
    - (i) recommend that the school official execute the federal education agreement or national program;

- (ii) recommend that the school official reject the federal education agreement or national program; or
  - (iii) recommend to the governor that the governor call a special session of the Legislature to review and approve or reject the federal education agreement or national program.
- (2)
- (a) Before legally binding the state by executing a federal education agreement or national program that may cost education entities more than \$5,000,000 annually to implement, a school official shall:
    - (i) submit the proposed federal education agreement or national program to the governor for the governor's approval or rejection as required by Section 53E-3-804; and
    - (ii) if the governor approves the federal education agreement or national program, submit the federal education agreement or national program to the Legislature for its approval in an annual general session or a special session.
  - (b)
    - (i) If the Legislature approves the federal education agreement or national program, the school official may execute the agreement.
    - (ii) If the Legislature rejects the federal education agreement or national program, the school official may not execute the agreement.
  - (c) If a school official executes a federal education agreement or national program without obtaining the Legislature's approval under this Subsection (2):
    - (i) the governor may issue an executive order declaring the federal education agreement or national program void; or
    - (ii) the Legislature may pass a joint resolution declaring the federal education agreement or national program void.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-806 Cost evaluation of federal education agreements or national programs.**

- (1) Before legally binding the state to a federal education agreement or national program that may cost the state a total of \$500,000 or more to implement, a school official shall estimate the state and local cost of implementing the federal education agreement or national program and submit that cost estimate to the governor and the Executive Appropriations Committee of the Legislature.
- (2) The Executive Appropriations Committee may:
  - (a) direct its staff to make an independent cost estimate of the cost of implementing the federal education agreement or national program; and
  - (b) affirmatively adopt a cost estimate as the benchmark for determining which authorizations established by this part are necessary.

Renumbered and Amended by Chapter 1, 2018 General Session

**Part 9**  
**Interstate Compact on Educational Opportunity for Military Children**

**53E-3-901 Title -- Interstate Compact on Educational Opportunity for Military Children.**

This part is known as the "Interstate Compact on Educational Opportunity for Military Children."

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-902 Article I -- Purpose.**

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

- (1) facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district or variations in entrance or age requirements;
- (2) facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
- (3) facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
- (4) facilitating the on-time graduation of children of military families;
- (5) providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;
- (6) providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;
- (7) promoting coordination between this compact and other compacts affecting military children; and
- (8) promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the student.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-903 Article II -- Definitions.**

As used in this compact, unless the context clearly requires a different construction:

- (1) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve.
- (2) "Children of military families" means a school-aged child, enrolled in Kindergarten through Twelfth grade, in the household of an active duty member.
- (3) "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.
- (4) "Deployment" means the period one month prior to the service member's departure from their home station on military orders through six months after return to their home station.
- (5) "Education" or "educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
- (6) "Extracurricular activities" means a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

- (7) "Interstate Commission on Educational Opportunity for Military Children" means the commission that is created in Section 53E-3-910 and generally referred to as Interstate Commission.
- (8) "Local education agency" means a public authority legally constituted by the state as an administrative agency to provide control of and direction for Kindergarten through Twelfth grade public educational institutions.
- (9) "Member state" means a state that has enacted this compact.
- (10) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
- (11) "Non-member state" means a state that has not enacted this compact.
- (12) "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
- (13) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section 53E-3-913 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and includes the amendment, repeal, or suspension of an existing rule.
- (14) "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
- (15) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and any other U.S. Territory.
- (16) "Student" means the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth grade.
- (17) "Transition" means:
  - (a) the formal and physical process of transferring from school to school; or
  - (b) the period of time in which a student moves from one school in the sending state to another school in the receiving state.
- (18) "Uniformed services" means the same as that term is defined in Section 68-3-12.5.
- (19) "Veteran" means a person who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

Renumbered and Amended by Chapter 1, 2018 General Session

### **53E-3-904 Article III -- Applicability.**

- (1) Except as otherwise provided in Subsection (3), this compact shall apply to the children of:
  - (a) active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve;
  - (b) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
  - (c) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.



- (2) The provisions of this interstate compact shall only apply to local education agencies as defined in this compact.
- (3) The provisions of this compact do not apply to the children of:
  - (a) inactive members of the National Guard and military reserves;
  - (b) members of the uniformed services now retired, except as provided in Subsection (1); and
  - (c) veterans of the uniformed services, except as provided in Subsection (1), and other U.S. Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-905 Article IV -- Educational records and enrollment -- Immunizations -- Grade level entrance.**

- (1) Unofficial or "hand-carried" education records. In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- (2) Official education records or transcripts. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within 10 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- (3) Immunizations. Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- (4) Kindergarten and First grade entrance age. Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including Kindergarten, from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. Students transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-906 Article V -- Course placement -- Attendance -- Special education services -- Flexibility -- Absences related to deployment.**

- (1) When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to

Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.

- (2) The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to gifted and talented programs and English as a Second Language (ESL). This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
- (3)
  - (a) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on the student's current Individualized Education Program (IEP).
  - (b) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
- (4) Local education agency administrative officials shall have flexibility in waiving course or program prerequisites, or other preconditions for placement, in courses or programs offered under the jurisdiction of the local education agency.
- (5) A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-907 Article VI -- Eligibility -- Enrollment -- Extracurricular activities.**

- (1) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.
- (2) A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.
- (3) A transitioning military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which the student was enrolled while residing with the custodial parent.

- (4) State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-908 Article VII -- Graduation -- Waiver -- Exit exams -- Senior year transfers.**

In order to facilitate the on-time graduation of children of military families, states and local education agencies shall incorporate the following procedures:

- (1) Local education agency administrative officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another local education agency or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on time.
- (2) States shall accept:
  - (a) exit or end-of-course exams required for graduation from the sending state;
  - (b) national norm-referenced achievement tests; or
  - (c) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in the student's Senior year, then the provisions of Subsection (3) shall apply.
- (3) Should a military student transferring at the beginning or during the student's Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Subsections (1) and (2).

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-909 Article VIII -- State coordination -- Membership of State Council.**

- (1) Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership shall include at least:
  - (a) the state superintendent of education;
  - (b) a superintendent of a school district with a high concentration of military children;
  - (c) a representative from a military installation;
  - (d) one representative each from the legislative and executive branches of government; and
  - (e) other offices and stakeholder groups the State Council considers appropriate.
- (2) A member state that does not have a school district that contains a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.
- (3) The State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.

- (4) The compact commissioner responsible for the administration and management of the state's participation in the compact shall be appointed in accordance with Section 53E-3-921.
- (5) The compact commissioner and the designated military family education liaison shall be ex-officio members of the State Council, unless either is already a full voting member of the State Council.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-910 Article IX -- Creation of Interstate Commission.**

- (1) The member states hereby create the "Interstate Commission on Educational Opportunity for Military Children." The activities of the Interstate Commission are the formation of public policy and are a discretionary state function.
- (2) The Interstate Commission shall:
  - (a) Be a body corporate and joint agency of the member states and have all the responsibilities, powers, and duties set forth in this compact, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.
  - (b) Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner.
    - (i) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.
    - (ii) A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.
    - (iii) A representative may not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from their state for a specified meeting.
    - (iv) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.
- (3) Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.
- (4) Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.
- (5) Establish an executive committee, whose members shall include the officers of the Interstate Commission and other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other duties considered necessary. The U.S. Department of Defense shall serve as an ex-officio, nonvoting member of the executive committee.

- (6) Establish bylaws and rules that provide for conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- (7) Give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion of the meeting, where it determines by two-thirds vote that an open meeting would be likely to:
  - (a) relate solely to the Interstate Commission's internal personnel practices and procedures;
  - (b) disclose matters specifically exempted from disclosure by federal and state statute;
  - (c) disclose trade secrets or commercial or financial information which is privileged or confidential;
  - (d) involve accusing a person of a crime, or formally censuring a person;
  - (e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
  - (f) disclose investigative records compiled for law enforcement purposes; or
  - (g) specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.
- (8) Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.
- (9) Collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting shall, as far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
- (10) Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section may not be construed to create a private right of action against the Interstate Commission or any member state.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-911 Article X -- Powers and duties of the Interstate Commission.**

The Interstate Commission shall have the following powers:

- (1) To provide for dispute resolution among member states.
- (2) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations enumerated in this compact. The rules shall have the force and effect of rules promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and shall be binding in the compact states to the extent and in the manner provided in this compact.

- (3) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.
- (4) To monitor compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws. Any action to enforce compliance with the compact provision by the Interstate Commission shall be brought against a member state only.
- (5) To establish and maintain offices which shall be located within one or more of the member states.
- (6) To purchase and maintain insurance and bonds.
- (7) To borrow, accept, hire, or contract for services of personnel.
- (8) To establish and appoint committees including, but not limited to, an executive committee as required by Subsection 53E-3-910(5), which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties.
- (9) To elect or appoint officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications, and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.
- (10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.
- (11) To lease, purchase, accept contributions, or donations of, or otherwise to own, hold, improve, or use any property - real, personal, or mixed.
- (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property - real, personal, or mixed.
- (13) To establish a budget and make expenditures.
- (14) To adopt a seal and bylaws governing the management and operation of the Interstate Commission.
- (15) To report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. The reports shall also include any recommendations that may have been adopted by the Interstate Commission.
- (16) To coordinate education, training, and public awareness regarding the compact and its implementation and operation for officials and parents involved in such activity.
- (17) To establish uniform standards for the reporting, collecting, and exchanging of data.
- (18) To maintain corporate books and records in accordance with the bylaws.
- (19) To perform any functions necessary or appropriate to achieve the purposes of this compact.
- (20) To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-912 Article XI -- Organization and operation of the Interstate Commission -- Executive committee -- Officers -- Personnel.**

- (1) The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as necessary or appropriate to carry out the purposes of the compact, including, but not limited to:
  - (a) establishing the fiscal year of the Interstate Commission;
  - (b) establishing an executive committee, and other committees as necessary;
  - (c) providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

- (d) providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting;
  - (e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
  - (f) providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and
  - (g) providing start up rules for initial administration of the compact.
- (2) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have the authority and duties specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.
- (3) The executive committee shall have the authority and duties set forth in the bylaws, including, but not limited to:
- (a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
  - (b) overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
  - (c) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.
- (4) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may consider appropriate. The executive director shall serve as secretary to the Interstate Commission, but may not be a member of the Interstate Commission. The executive director shall hire and supervise other persons authorized by the Interstate Commission.
- (5) The Interstate Commission's executive director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the person may not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.
- (a) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any action. Nothing in this Subsection (5)(a) shall be construed to protect a person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

- (b) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend the Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.
- (c) To the extent not covered by the state involved, the member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against a person arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the person had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities; provided that, the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-913 Article XII -- Rulemaking -- Authority -- Procedure -- Review -- Rejection by Legislature.**

- (1) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted in accordance with this compact, then the action by the Interstate Commission shall be invalid and have no force or effect.
- (2) Rules shall be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act, of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.
- (3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided that, the filing of a petition may not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.
- (4) If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule shall have no further force and effect in any compacting state.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-914 Article XIII -- Oversight -- Enforcement -- Dispute resolution -- Default -- Technical assistance -- Suspension -- Termination.**

- (1) Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated in accordance with the compact



shall have standing as a rule promulgated under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

- (2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.
- (3) The Interstate Commission shall be entitled to receive all service of process in any proceeding, and have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact, or promulgated rules.
- (4) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:
  - (a) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state shall cure its default.
  - (b) Provide remedial training and specific technical assistance regarding the default.
- (5) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
- (6) Suspension or termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
- (7) The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, not to exceed \$5,000 per year, as provided in Subsection 53E-3-915(5), for each year that the state is a member of the compact.
- (8) The Interstate Commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.
- (9) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of the litigation including reasonable attorney fees.
- (10) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and non-member states.
- (11) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-915 Article XIV -- Financing of the Interstate Commission.**

- (1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

- (2) In accordance with the funding limit established in Subsection (5), the Interstate Commission may levy and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which shall be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.
- (3) The Interstate Commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.
- (4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.
- (5) The Interstate Commission may not assess, levy, or collect more than \$5,000 per year from Utah legislative appropriations. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-916 Article XV -- Member states -- Effective date -- Amendments.**

- (1) Any state is eligible to become a member state.
- (2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states.
- (3) The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-917 Article XVI -- Withdrawal -- Dissolution.**

- (1) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that, a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.
- (2) Withdrawal from this compact shall be by the enactment of a statute repealing the same.
- (3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of the notification.

- (4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, not to exceed \$5,000 per year, as provided in Subsection 53E-3-915(5), for each year that the state is a member of the compact.
- (5) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon a later date determined by the Interstate Commission.
- (6) This compact shall dissolve effective upon the date of the withdrawal or default of a member state which reduces the membership in the compact to one member state.
- (7) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect. The business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-918 Article XVII -- Severability -- Construction.**

- (1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.
- (2) The provisions of this compact shall be liberally construed to effectuate its purposes.
- (3) Nothing in this compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-919 Article XVIII -- Binding effect of compact -- Other state laws.**

- (1) Nothing in this compact prevents the enforcement of any other law of a member state.
- (2) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.
- (3) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.
- (4) In the event any provision of this compact exceeds the statutory or constitutional limits imposed on the legislature of any member state, that provision shall be ineffective to the extent of the conflict with the statutory or constitutional provision in question in that member state.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-3-920 Creation of State Council on Military Children.**

- (1) There is established a State Council on Military Children, as required in Section 53E-3-909.
- (2) The members of the State Council on Military Children shall include:
  - (a) the state superintendent of public instruction;
  - (b) a superintendent of a school district with a high concentration of military children appointed by the governor;
  - (c) a representative from a military installation, appointed by the governor;
  - (d) one member of the House of Representatives, appointed by the speaker of the House;
  - (e) one member of the Senate, appointed by the president of the Senate;
  - (f) a representative from the Department of Veterans and Military Affairs, appointed by the governor;
  - (g) a military family education liaison, appointed by the members listed in Subsections (2)(a) through (f);

- (h) the compact commissioner, appointed in accordance with Section 53E-3-921; and
- (i) other members as determined by the governor.
- (3) The State Council on Military Children shall carry out the duties established in Section 53E-3-909.
- (4)
  - (a) A member who is not a legislator may not receive compensation or per diem.
  - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 39, 2018 General Session

**53E-3-921 Appointment of compact commissioner.**

The governor, with the consent of the Senate, shall appoint a compact commissioner to carry out the duties described in this part.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Chapter 4**

### **Academic Standards, Assessments, and Materials**

#### **Part 1**

#### **General Provisions**

**53E-4-101 Title.**

This chapter is known as "Academic Standards, Assessments, and Materials."

Enacted by Chapter 1, 2018 General Session

#### **Part 2**

#### **Standards**

**53E-4-201 Definitions.**

Reserved

Enacted by Chapter 1, 2018 General Session

**53E-4-202 Core standards for Utah public schools.**

- (1)
  - (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53E-3-501, the State Board of Education shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:
    - (i) communicate effectively, both verbally and through written communication;

- (ii) apply mathematics; and
  - (iii) access, analyze, and apply information.
- (b) Except as provided in this public education code, the State Board of Education may recommend but may not require a local school board or charter school governing board to use:
  - (i) a particular curriculum or instructional material; or
  - (ii) a model curriculum or instructional material.
- (2) The State Board of Education shall, in establishing the core standards for Utah public schools:
  - (a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and
  - (b) align with each other the core standards for Utah public schools and the assessments described in Section 53E-4-303.
- (3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:
  - (a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and
  - (b) mathematics, including basic computational skills.
- (4) Before adopting core standards for Utah public schools, the State Board of Education shall:
  - (a) publicize draft core standards for Utah public schools on the State Board of Education's website and the Utah Public Notice website created under Section 63F-1-701;
  - (b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and
  - (c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.
- (5) Local school boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.
- (6) Except as provided in Section 53G-10-402, each school may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.
- (7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:
  - (a) the cost of developing or implementing the core standards for Utah public schools;
  - (b) the proposed core standards for Utah public schools are inconsistent with community values; or
  - (c) the agreement, contract, memorandum of understanding, or consortium:
    - (i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;
    - (ii) conflicts with Utah law;
    - (iii) requires Utah student data to be included in a national or multi-state database;
    - (iv) requires records of teacher performance to be included in a national or multi-state database; or
    - (v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

- (8) The State Board of Education shall annually report to the Education Interim Committee on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-203 Standards review committee.**

- (1) As used in this section, "board" means the State Board of Education.
- (2) Subject to Subsection (5), the State Board of Education shall establish:
- (a) a time line for the review by a standards review committee of the core standards for Utah public schools for:
    - (i) English language arts;
    - (ii) mathematics;
    - (iii) science;
    - (iv) social studies;
    - (v) fine arts;
    - (vi) physical education and health; and
    - (vii) early childhood education; and
  - (b) a separate standards review committee for each subject area specified in Subsection (2)(a) to review, and recommend to the board revisions to, the core standards for Utah public schools.
- (3) At least one year before the board takes formal action to adopt new core standards for Utah public schools, the board shall establish a standards review committee as required by Subsection (2)(b).
- (4) A standards review committee shall meet at least twice during the time period described in Subsection (3).
- (5) In establishing a time line for the review of core standards for Utah public schools by a standards review committee, the board shall give priority to establishing a standards review committee to review, and recommend revisions to, the mathematics core standards for Utah public schools.
- (6) The membership of a standards review committee consists of:
- (a) seven individuals, with expertise in the subject being reviewed, appointed by the board chair, including teachers, business representatives, faculty of higher education institutions in Utah, and others as determined by the board chair;
  - (b) five parents or guardians of public education students appointed by the speaker of the House of Representatives; and
  - (c) five parents or guardians of public education students appointed by the president of the Senate.
- (7) The board shall provide staff support to the standards review committee.
- (8) A member of the standards review committee may not receive compensation or benefits for the member's service on the committee.
- (9) Among the criteria a standards review committee shall consider when reviewing the core standards for Utah public schools is giving students an adequate foundation to successfully pursue college, technical education, a career, or other life pursuits.
- (10) A standards review committee shall submit, to the board, comments and recommendations for revision of the core standards for Utah public schools.

- (11) The board shall take into consideration the comments and recommendations of a standards review committee in adopting the core standards for Utah public schools.
- (12)
- (a) Nothing in this section prohibits the board from amending or adding individual core standards for Utah public schools as the need arises in the board's ongoing responsibilities.
  - (b) If the board makes changes as described in Subsection (12)(a), the board shall include the changes in the annual report the board submits to the Education Interim Committee under Section 53E-4-202.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-204 Standards and graduation requirements.**

- (1) The State Board of Education shall establish rigorous core standards for Utah public schools and graduation requirements under Section 53E-3-501 for grades 9 through 12 that:
- (a) are consistent with state law and federal regulations; and
  - (b) beginning no later than with the graduating class of 2008:
    - (i) use competency-based standards and assessments;
    - (ii) include instruction that stresses general financial literacy from basic budgeting to financial investments, including bankruptcy education and a general financial literacy test-out option; and
    - (iii) increase graduation requirements in language arts, mathematics, and science to exceed the existing credit requirements of 3.0 units in language arts, 2.0 units in mathematics, and 2.0 units in science.
- (2) The State Board of Education shall also establish competency-based standards and assessments for elective courses.
- (3) On or before July 1, 2014, the State Board of Education shall adopt revised course standards and objectives for the course of instruction in general financial literacy described in Subsection (1)(b) that address:
- (a) the costs of going to college, student loans, scholarships, and the Free Application for Federal Student Aid (FAFSA); and
  - (b) technology that relates to banking, savings, and financial products.
- (4) The State Board of Education shall administer the course of instruction in general financial literacy described in Subsection (1)(b) in the same manner as other core standards for Utah public schools courses for grades 9 through 12 are administered.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-205 American civics education initiative.**

- (1) As used in this section:
- (a) "Adult education program" means an organized educational program below the postsecondary level, other than a regular full-time K-12 secondary education program, provided by an LEA or nonprofit organization that provides the opportunity for an adult to further the adult's high school level education.
  - (b) "Basic civics test" means a test that includes 50 of the 100 questions on the civics test form used by the United States Citizenship and Immigration Services:
    - (i) to determine that an individual applying for United States citizenship meets the basic citizenship skills specified in 8 U.S.C. Sec. 1423; and
    - (ii) in accordance with 8 C.F.R. Sec. 312.2.

- (c) "Board" means the State Board of Education.
- (d) "LEA" means:
  - (i) a school district;
  - (ii) a charter school; or
  - (iii) the Utah Schools for the Deaf and the Blind.
- (2)
  - (a) Except as provided in Subsection (2)(b), the board shall require:
    - (i) a public school student who graduates on or after January 1, 2016, to pass a basic civics test as a condition for receiving a high school diploma; and
    - (ii) a student enrolled in an adult education program to pass a basic civics test as a condition for receiving an adult education secondary diploma.
  - (b) The board may require a public school student to pass an alternate assessment instead of a basic civics test if the student qualifies for an alternate assessment, as defined in board rule.
- (3) An individual who correctly answers a minimum of 35 out of the 50 questions on a basic civics test passes the test and an individual who correctly answers fewer than 35 out of 50 questions on a basic civics test does not pass the test.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:
  - (a) require an LEA that serves secondary students to administer a basic civics test or alternate assessment to a public school student enrolled in the LEA;
  - (b) require an adult education program provider to administer a basic civics test to an individual who intends to receive an adult education secondary diploma;
  - (c) allow an individual to take a basic civics test as many times as needed in order to pass the test; and
  - (d) for the alternate assessment described in Subsection (2)(b), describe:
    - (i) the content of an alternate assessment;
    - (ii) how a public school student qualifies for an alternate assessment; and
    - (iii) how an LEA determines if a student passes an alternate assessment.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-206 Career and college readiness mathematics competency standards.**

- (1) As used in this section, "qualifying score" means a score established as described in Subsection (4), that, if met by a student, qualifies the student to receive college credit for a mathematics course that satisfies the state system of higher education quantitative literacy requirement.
- (2) The State Board of Education shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that:
  - (a)
    - (i) establish the mathematics competency standards described in Subsection (3) as a graduation requirement beginning with the 2016-17 school year; and
    - (ii) include the qualifying scores described in Subsection (4); and
  - (b) establish systematic reporting of college and career ready mathematics achievement.
- (3) In addition to other graduation requirements established by the State Board of Education, a student shall fulfill one of the following requirements to demonstrate mathematics competency that supports the student's future college and career goals as outlined in the student's college and career plan:
  - (a) for a student pursuing a college degree after graduation:



- (i) receive a score that at least meets the qualifying score for:
  - (A) an Advanced Placement calculus or statistics exam;
  - (B) an International Baccalaureate higher level mathematics exam;
  - (C) a college-level math placement test described in Subsection (5);
  - (D) a College Level Examination Program precalculus or calculus exam; or
  - (E) the ACT Mathematics Test; or
- (ii) receive at least a "C" grade in a concurrent enrollment mathematics course that satisfies the state system of higher education quantitative literacy requirement;
- (b) for a non college degree-seeking student, the student shall complete appropriate math competencies for the student's career goals as described in the student's college and career plan;
- (c) for a student with an individualized education program prepared in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., the student shall meet the mathematics standards described in the student's individualized education program; or
- (d) for a senior student with special circumstances as described in State Board of Education rule, the student shall fulfill a requirement associated with the student's special circumstances, as established in State Board of Education rule.
- (4) The State Board of Regents shall, in consultation with the State Board of Education, determine qualifying scores for the tests and exams described in Subsection (3)(a)(i).
- (5) The State Board of Regents, established in Section 53B-1-103, shall make a policy to select at least two tests for college-level math placement.
- (6) The State Board of Regents shall, in consultation with the State Board of Education, make policies to:
  - (a) develop mechanisms for a student who completes a math competency requirement described in Subsection (3)(a) to:
    - (i) receive college credit; and
    - (ii) satisfy the state system of higher education quantitative literacy requirement;
  - (b) allow a student, upon completion of required high school mathematics courses with at least a "C" grade, entry into a mathematics concurrent enrollment course;
  - (c) increase access to a range of mathematics concurrent enrollment courses;
  - (d) establish a consistent concurrent enrollment course approval process; and
  - (e) establish a consistent process to qualify high school teachers with an upper level mathematics endorsement to teach entry level mathematics concurrent enrollment courses.

Renumbered and Amended by Chapter 1, 2018 General Session

### **Part 3**

### **Assessments**

#### **53E-4-301 Definitions.**

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Core standards for Utah public schools" means the standards established by the board as described in Section 53E-4-202.

- (3) "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (4) "Statewide assessment" means one or more of the following, as applicable:
  - (a) a standards assessment described in Section 53E-4-303;
  - (b) a high school assessment described in Section 53E-4-304;
  - (c) a college readiness assessment described in Section 53E-4-305; or
  - (d) an assessment of students in grade 3 to measure reading grade level described in Section 53E-4-307.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-301.5 Legislative intent.**

- (1) In enacting this part, the Legislature intends to determine the effectiveness of school districts and schools in assisting students to master the fundamental educational skills toward which instruction is directed.
- (2) The board shall ensure that a statewide assessment provides the public, the Legislature, the board, school districts, public schools, and school teachers with:
  - (a) evaluative information regarding the various levels of proficiency achieved by students, so that they may have an additional tool to plan, measure, and evaluate the effectiveness of programs in the public schools; and
  - (b) information to recognize excellence and to identify the need for additional resources or to reallocate educational resources in a manner to ensure educational opportunities for all students and to improve existing programs.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-302 Statewide assessments -- Duties of State Board of Education.**

- (1) The board shall:
  - (a) require the state superintendent of public instruction to:
    - (i) submit and recommend statewide assessments to the board for adoption by the board; and
    - (ii) distribute the statewide assessments adopted by the board to a school district or charter school;
  - (b) provide for the state to participate in the National Assessment of Educational Progress state-by-state comparison testing program; and
  - (c) require a school district or charter school to administer statewide assessments.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules for the administration of statewide assessments.
- (3) The board shall ensure that statewide assessments are administered in compliance with the requirements of Chapter 9, Student Privacy and Data Protection.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-303 Utah standards assessments -- Administration -- Review committee.**

- (1) As used in this section, "computer adaptive assessment" means an assessment that measures the range of a student's ability by adapting to the student's responses, selecting more difficult or less difficult questions based on the student's responses.
- (2) The board shall:

- (a) adopt a standards assessment that:
  - (i) measures a student's proficiency in:
    - (A) mathematics for students in each of grades 3 through 8;
    - (B) English language arts for students in each of grades 3 through 8;
    - (C) science for students in each of grades 4 through 8; and
    - (D) writing for students in at least grades 5 and 8; and
  - (ii) except for the writing measurement described in Subsection (2)(a)(i)(D), is a computer adaptive assessment; and
- (b) ensure that an assessment described in Subsection (2)(a) is:
  - (i) a criterion referenced assessment;
  - (ii) administered online;
  - (iii) aligned with the core standards for Utah public schools; and
  - (iv) adaptable to competency-based education as defined in Section 53F-5-501.
- (3) A school district or charter school shall annually administer the standards assessment adopted by the board under Subsection (2) to all students in the subjects and grade levels described in Subsection (2).
- (4) A student's score on the standards assessment adopted under Subsection (2) may not be considered in determining:
  - (a) the student's academic grade for a course; or
  - (b) whether the student may advance to the next grade level.
- (5)
  - (a) The board shall establish a committee consisting of 15 parents of Utah public education students to review all standards assessment questions.
  - (b) The committee established in Subsection (5)(a) shall include the following parent members:
    - (i) five members appointed by the chair of the board;
    - (ii) five members appointed by the speaker of the House of Representatives or the speaker's designee; and
    - (iii) five members appointed by the president of the Senate or the president's designee.
  - (c) The board shall provide staff support to the parent committee.
  - (d) The term of office of each member appointed in Subsection (5)(b) is four years.
  - (e) The chair of the board, the speaker of the House of Representatives, and the president of the Senate shall adjust the length of terms to stagger the terms of committee members so that approximately half of the committee members are appointed every two years.
  - (f) No member may receive compensation or benefits for the member's service on the committee.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-304 High school assessments.**

- (1) The board shall adopt a high school assessment that:
  - (a) is predictive of a student's college readiness as measured by the college readiness assessment described in Section 53E-4-305; and
  - (b) provides a growth score for a student from grade 9 to 10.
- (2) A school district or charter school shall annually administer the high school assessment adopted by the board under Subsection (1) to all students in grades 9 and 10.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-305 College readiness assessments.**

- (1) The Legislature recognizes the need for the board to develop and implement standards and assessment processes to ensure that student progress is measured and that school boards and school personnel are accountable.
- (2) The board shall adopt a college readiness assessment for secondary students that:
  - (a) is the college readiness assessment most commonly submitted to local universities; and
  - (b) may include:
    - (i) the Armed Services Vocational Aptitude Battery; or
    - (ii) a battery of assessments that are predictive of success in higher education.
- (3)
  - (a) Except as provided in Subsection (3)(b), a school district or charter school shall annually administer the college readiness assessment adopted under Subsection (2) to all students in grade 11.
  - (b) A student with an IEP may take an appropriate college readiness assessment other than the assessment adopted by the board under Subsection (2), as determined by the student's IEP.
- (4) In accordance with Section 53F-4-202, the board shall contract with a provider to provide an online college readiness diagnostic tool.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-306 State reading goal -- Reading achievement plan.**

- (1) As used in this section:
  - (a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.
  - (b) "Five domains of reading" include phonological awareness, phonics, fluency, comprehension, and vocabulary.
- (2)
  - (a) The Legislature recognizes that:
    - (i) reading is the most fundamental skill, the gateway to knowledge and lifelong learning;
    - (ii) there is an ever increasing demand for literacy in the highly technological society we live in;
    - (iii) students who do not learn to read will be economically and socially disadvantaged;
    - (iv) reading problems exist in almost every classroom;
    - (v) almost all reading failure is preventable if reading difficulties are diagnosed and treated early; and
    - (vi) early identification and treatment of reading difficulties can result in students learning to read by the end of the third grade.
  - (b) It is therefore the goal of the state to have every student in the state's public education system reading on or above grade level by the end of the third grade.
- (3)
  - (a) Each public school containing kindergarten, grade one, grade two, or grade three, including charter schools, shall develop, as a component of the school improvement plan described in Section 53G-7-1204, a reading achievement plan for its students in kindergarten through grade three to reach the reading goal set in Subsection (2)(b).
  - (b) The reading achievement plan shall be:
    - (i) created under the direction of:
      - (A) the school community council or a subcommittee or task force created by the school community council, in the case of a school district school; or

- (B) the charter school governing board or a subcommittee or task force created by the governing board, in the case of a charter school; and
  - (ii) implemented by the school's principal, teachers, and other appropriate school staff.
  - (c) The school principal shall take primary responsibility to provide leadership and allocate resources and support for teachers and students, most particularly for those who are reading below grade level, to achieve the reading goal.
  - (d) Each reading achievement plan shall include:
    - (i) an assessment component that:
      - (A) focuses on ongoing formative assessment to measure the five domains of reading, as appropriate, and inform individualized instructional decisions; and
      - (B) includes a benchmark assessment of reading approved by the board pursuant to Section 53E-4-307;
    - (ii) an intervention component:
      - (A) that provides adequate and appropriate interventions focused on each student attaining competency in reading skills;
      - (B) based on best practices identified through proven researched-based methods;
      - (C) that provides intensive intervention, such as focused instruction in small groups and individualized data driven instruction, implemented at the earliest possible time for students having difficulty in reading;
      - (D) that provides an opportunity for parents to receive materials and guidance so that they will be able to assist their children in attaining competency in reading skills; and
      - (E) that, as resources allow, may involve a reading specialist; and
    - (iii) a reporting component that includes reporting to parents:
      - (A) at the beginning, in the middle, and at the end of grade one, grade two, and grade three, their child's benchmark assessment results as required by Section 53E-4-307; and
      - (B) at the end of third grade, their child's reading level.
  - (e) In creating or reviewing a reading achievement plan as required by this section, a school community council, charter school governing board, or a subcommittee or task force of a school community council or charter school governing board may not have access to data that reveal the identity of students.
- (4)
- (a) The school district shall approve each plan developed by schools within the district prior to its implementation and review each plan annually.
  - (b) The charter school governing board shall approve each plan developed by schools under its control and review each plan annually.
  - (c) A school district and charter school governing board shall:
    - (i) monitor the learning gains of a school's students as reported by the benchmark assessments administered pursuant to Section 53E-4-307; and
    - (ii) require a reading achievement plan to be revised, if the school district or charter school governing board determines a school's students are not making adequate learning gains.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-307 Benchmark assessments in reading -- Report to parent or guardian.**

- (1) As used in this section, "competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

- (2) The board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades one, two, and three as provided by this section.
- (3) A school district or charter school shall:
  - (a) administer benchmark assessments to students in grades one, two, and three at the beginning, middle, and end of the school year using the benchmark assessment approved by the board; and
  - (b) after administering a benchmark assessment, report the results to a student's parent or guardian.
- (4) If a benchmark assessment or supplemental reading assessment indicates a student lacks competency in a reading skill, or is lagging behind other students in the student's grade in acquiring a reading skill, the school district or charter school shall:
  - (a) provide focused individualized intervention to develop the reading skill;
  - (b) administer formative assessments to measure the success of the focused intervention;
  - (c) inform the student's parent or guardian of activities that the parent or guardian may engage in with the student to assist the student in improving reading proficiency; and
  - (d) provide information to the parent or guardian regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school.
- (5) In accordance with Section 53F-4-201, the board shall contract with one or more educational technology providers for a diagnostic assessment system for reading for students in kindergarten through grade 3.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-308 Unique student identifier -- Coordination of higher education and public education information technology systems.**

- (1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:
  - (a) is not assigned to any former or current student; and
  - (b) does not incorporate personal information, including a birth date or Social Security number.
- (2) The board, through the superintendent of public instruction, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.
- (3) The board and the State Board of Regents shall coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109.
- (4) The board and the State Board of Regents shall coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-309 Grade level specification change.**

- (1) The board may change a grade level specification for the administration of specific assessments under this part to a different grade level specification or a competency-based specification if the specification is more consistent with patterns of school organization.

- (2)
  - (a) If the board changes a grade level specification described in Subsection (1), the board shall submit a report to the Legislature explaining the reasons for changing the grade level specification.
  - (b) The board shall submit the report at least six months before the anticipated change.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-310 Scoring -- Reports of results.**

- (1) For a statewide assessment that requires the use of a student answer sheet, a local school board or charter school governing board shall submit all answer sheets on a per-school and per-class basis to the state superintendent of public instruction for scoring unless the assessment requires scoring by a national testing service.
- (2) The district, school, and class results of the statewide assessments, but not the score or relative position of individual students, shall be reported to each local school board or charter school governing board annually at a regularly scheduled meeting.
- (3) A local school board or charter school governing board:
  - (a) shall make copies of the report available to the general public upon request; and
  - (b) may charge a fee for the cost of copying the report.
- (4)
  - (a) The board shall annually provide to school districts and charter schools a comprehensive report for each of the school district's and charter school's students showing the student's statewide assessment results for each year that the student took a statewide assessment.
  - (b) A school district or charter school shall give a copy of the comprehensive report to the student's parents and make the report available to school staff, as appropriate.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-311 Analysis of results -- Staff professional development.**

- (1) The board, through the state superintendent of public instruction, shall develop an online data reporting tool to analyze the results of statewide assessments.
- (2) The online data reporting tool shall include components designed to:
  - (a) assist school districts and individual schools to use the results of the analysis in planning, evaluating, and enhancing programs;
  - (b) identify schools not achieving state-established acceptable levels of student performance in order to assist those schools in improving student performance levels; and
  - (c) provide:
    - (i) for statistical reporting of statewide assessment results at state, school district, school, and grade or course levels; and
    - (ii) actual levels of performance on statewide assessments.
- (3) A local school board or charter school governing board shall provide for:
  - (a) evaluation of the statewide assessment results and use of the evaluations in setting goals and establishing programs; and
  - (b) a professional development program that provides teachers, principals, and other professional staff with the training required to successfully establish and maintain statewide assessments.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-312 Preparation for tests.**

- (1) School district employees may not conduct any specific instruction or preparation of students that would be a breach of testing ethics, such as the teaching of specific test questions.
- (2) School district employees who administer the test shall follow the standardization procedures in the test administration manual for an assessment and any additional specific instructions developed by the board.
- (3) The board may revoke the certification of an individual who violates this section.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-313 Construction of part.**

Nothing in this part shall be construed to mean or represented to require that graduation from a high school or promotion to another grade is in any way dependent upon successful performance of any test administered as a part of the testing program established under this part.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-314 School readiness assessment.**

- (1) As used in this section:
  - (a) "School readiness assessment" means the preschool entry assessment described in this section.
  - (b) "School readiness program" means a preschool program:
    - (i) in which a student participates in the year before the student is expected to enroll in kindergarten; and
    - (ii) that receives funding under:
      - (A) Title 53F, Chapter 5, Part 3, High Quality School Readiness Program; or
      - (B) Title 53F, Chapter 6, Part 3, School Readiness Initiative.
- (2) The State Board of Education shall develop a school readiness assessment that aligns with the kindergarten entry and exit assessment described in Section 53F-4-205.
- (3) A school readiness program shall:
  - (a) except as provided in Subsection (4), administer to each student who participates in the school readiness program:
    - (i) the school readiness assessment at the beginning of the student's participation in the school readiness program; and
    - (ii) the kindergarten entry assessment described in Section 53F-4-205 at the end of the student's participation in the school readiness program; and
  - (b) report the results of the assessments described in Subsection (3)(a) or (4) to:
    - (i) the State Board of Education; and
    - (ii) the Department of Workforce Services.
- (4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:
  - (a) a validated computer adaptive pre-assessment at the beginning of the student's participation in the school readiness program; and
  - (b) a validated computer adaptive post-assessment at the end of the student's participation in the school readiness program.



Enacted by Chapter 389, 2018 General Session

## **Part 4**

### **State Instructional Materials Commission**

#### **53E-4-401 Definitions.**

As used in this part, "instructional materials" means textbooks or materials used as, or in place of, textbooks and which may be used within the state curriculum framework for courses of study by students in public schools to include:

- (1) textbooks;
- (2) workbooks;
- (3) computer software;
- (4) laser discs or videodiscs; and
- (5) multiple forms of communications media.

Enacted by Chapter 1, 2018 General Session

#### **53E-4-402 Creation of commission -- Powers -- Payment of expenses.**

- (1) The State Board of Education shall appoint a State Instructional Materials Commission consisting of:
  - (a) the state superintendent of public instruction or the superintendent's designee;
  - (b) a school district superintendent;
  - (c) a secondary school principal;
  - (d) an elementary school principal;
  - (e) a secondary school teacher;
  - (f) an elementary school teacher;
  - (g) five persons not employed in public education; and
  - (h) a dean of a school of education of a state college or university.
- (2) The commission shall evaluate instructional materials for recommendation by the board.
- (3) Members shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties shall be paid out of money appropriated to the board.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-4-403 Commission's evaluation of instructional materials -- Recommendation by the state board.**

- (1) Semi-annually after reviewing the evaluations of the commission, the board shall recommend instructional materials for use in the public schools.
- (2) The standard period of time instructional materials shall remain on the list of recommended instructional materials shall be five years.
- (3) Unsatisfactory instructional materials may be removed from the list of recommended instructional materials at any time within the period applicable to the instructional materials.
- (4) Except as provided in Section 53G-10-402, each school shall have discretion to select instructional materials for use by the school. A school may select:
  - (a) instructional materials recommended by the board as provided in this section; or

- (b) other instructional materials the school considers appropriate to teach the core standards for Utah public schools.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-404 Meetings -- Notice.**

- (1) The commission shall meet at the call of the state superintendent of public instruction or the superintendent's designee.
- (2) Notice of a meeting shall be given as required under Section 52-4-202.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-405 Sealed proposals for instructional materials contracts -- Sample copies -- Price of instructional materials.**

- (1) As used in this section, the word "sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.
- (2) A person seeking a contract to furnish instructional materials for use in the public schools shall submit a sealed proposal to the commission.
- (3) Each proposal must:
  - (a) be accompanied by sample copies of the instructional materials to be reviewed; and
  - (b) include the wholesale price at which the publisher agrees to furnish the instructional materials to districts and schools during the approval period.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-406 Awarding instructional materials contracts.**

- (1) The board shall award contracts for furnishing instructional materials.
- (2) If a satisfactory proposal to furnish instructional materials is not received, a new request for proposals may be issued.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-4-407 Illegal acts -- Misdemeanor.**

It is a class B misdemeanor for a member of the commission or the board to receive money or other remuneration as an inducement for the recommendation or introduction of instructional materials into the schools.

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 148, 2018 General Session

**53E-4-408 Instructional materials alignment with core standards for Utah public schools.**

- (1) For a school year beginning with or after the 2012-13 school year, a school district may not purchase primary instructional materials unless the primary instructional materials provider:
  - (a) contracts with an independent party to evaluate and map the alignment of the primary instructional materials with the core standards for Utah public schools adopted under Section 53E-3-501;

- (b) provides a detailed summary of the evaluation under Subsection (1)(a) on a public website at no charge, for use by teachers and the general public; and
  - (c) pays the costs related to the requirements of this Subsection (1).
- (2) The requirements under Subsection (1) may not be performed by:
- (a) the State Board of Education;
  - (b) the superintendent of public instruction or employees of the State Board of Education;
  - (c) the State Instructional Materials Commission appointed pursuant to Section 53E-4-402;
  - (d) a local school board or a school district; or
  - (e) the instructional materials creator or publisher.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall make rules that establish:
- (a) the qualifications of the independent parties who may evaluate and map the alignment of the primary instructional materials in accordance with the provisions of Subsection (1)(a); and
  - (b) requirements for the detailed summary of the evaluation and its placement on a public website in accordance with the provisions of Subsection (1)(b).

Renumbered and Amended by Chapter 1, 2018 General Session

## **Chapter 5 Accountability**

### **Part 1 General Provisions**

#### **53E-5-101 Title.**

This chapter is known as "Accountability."

Enacted by Chapter 1, 2018 General Session

### **Part 2 School Accountability System**

#### **53E-5-201 Definitions.**

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Individualized education program" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (3) "Lowest performing 25% of students" means the proportion of a school's students who scored in the lowest 25% of students in the school on a statewide assessment based on the prior school year's scores.
- (4) "Statewide assessment" means one or more of the following, as applicable:
  - (a) a standards assessment described in Section 53E-4-303;
  - (b) a high school assessment described in Section 53E-4-304;

- (c) a college readiness assessment described in Section 53E-4-305; or
- (d) an alternate assessment administered to a student with a disability.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-202 Statewide school accountability system -- State Board of Education rulemaking.**

- (1) There is established a statewide school accountability system.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to implement the school accountability system in accordance with this part.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-203 Schools included in school accountability system -- Other indicators and point distribution for a school that serves a special student population.**

- (1) Except as provided in Subsection (2), the board shall include all public schools in the state in the school accountability system established under this part.
- (2) The board shall exempt from the school accountability system:
  - (a) a school in which the number of students tested on a statewide assessment is lower than the minimum sample size necessary, based on acceptable professional practice for statistical reliability, or when release of the information would violate 20 U.S.C. Sec. 1232h, the prevention of the unlawful release of personally identifiable student data;
  - (b) a school in the school's first year of operations if the school's local school board or charter school governing board requests the exemption; or
  - (c) a high school in the school's second year of operations if the school's local school board or charter school governing board requests the exemption.
- (3) Notwithstanding the provisions of this part, the board may use, to appropriately assess the educational impact of a school that serves a special student population:
  - (a) other indicators in addition to the indicators described in Section 53E-5-205 or 53E-5-206; or
  - (b) different point distribution than the point distribution described in Section 53E-5-207.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-204 Rating schools.**

- (1) Except as provided in Subsection (3), and in accordance with this part, the board shall annually assign to each school an overall rating using an A through F letter grading scale where, based on the school's performance level on the indicators described in Subsection (2):
  - (a) an A grade represents an exemplary school;
  - (b) a B grade represents a commendable school;
  - (c) a C grade represents a typical school;
  - (d) a D grade represents a developing school; and
  - (e) an F grade represents a critical needs school.
- (2) A school's overall rating described in Subsection (1) shall be based on the school's performance on the indicators described in:
  - (a) Section 53E-5-205, for an elementary school or a middle school; or
  - (b) Section 53E-5-206, for a high school.
- (3)
  - (a) For a school year in which the board determines it is necessary to establish, due to a transition to a new assessment, a new baseline to determine student growth described

in Section 53E-5-210, the board is not required to assign an overall rating described in Subsection (1) to a school to which the new baseline applies.

(b) For the 2017-2018 school year, the board:

- (i) shall evaluate a school based on the school's performance level on the indicators described in Subsection (2) and in accordance with this part; and
- (ii) is not required to assign a school an overall rating described in Subsection (1).

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-5-205 Indicators for elementary and middle schools.**

For an elementary school or a middle school, the board shall assign the school's overall rating, in accordance with Section 53E-5-207, based on the school's performance on the following indicators:

- (1) academic achievement as measured by performance on a statewide assessment of English language arts, mathematics, and science;
- (2) academic growth as measured by progress from year to year on a statewide assessment of English language arts, mathematics, and science; and
- (3) equitable educational opportunity as measured by:
  - (a) academic growth of the lowest performing 25% of students as measured by progress of the lowest performing 25% of students on a statewide assessment of English language arts, mathematics, and science; and
  - (b) except as provided in Section 53E-5-209, English learner progress as measured by performance on an English learner assessment established by the board.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-5-206 Indicators for high schools.**

For a high school, in accordance with Section 53E-5-207, the board shall assign the school's overall rating based on the school's performance on the following indicators:

- (1) academic achievement as measured by performance on a statewide assessment of English language arts, mathematics, and science;
- (2) academic growth as measured by progress from year to year on a statewide assessment of English language arts, mathematics, and science;
- (3) equitable educational opportunity as measured by:
  - (a) academic growth of the lowest performing 25% of students as measured by progress of the lowest performing 25% of students on a statewide assessment of English language arts, mathematics, and science; and
  - (b) except as provided in Section 53E-5-209, English learner progress as measured by performance on an English learner assessment established by the board; and
- (4) postsecondary readiness as measured by:
  - (a) the school's graduation rate, as described in Section 53E-5-207;
  - (b) student performance, as described in Section 53E-5-207, on a college readiness assessment described in Section 53E-4-305; and
  - (c) student achievement in advanced course work, as described in Section 53E-5-207.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-5-207 Calculation of points.**

- (1)
  - (a) The board shall award to a school points for academic achievement described in Subsection 53E-5-205(1) or 53E-5-206(1) as follows:
    - (i) the board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of English language arts, score at or above the proficient level on the assessment;
    - (ii) the board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of mathematics, score at or above the proficient level on the assessment; and
    - (iii) the board shall award a school points proportional to the percentage of the school's students who, out of all the school's students who take a statewide assessment of science, score at or above the proficient level on the assessment.
  - (b)
    - (i) The maximum number of total points possible for academic achievement described in Subsection (1)(a) is 56 points.
    - (ii) The maximum number of points possible for a component listed in Subsection (1)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (1)(b)(i).
- (2)
  - (a) Subject to Subsection (2)(b), the board shall award to a school points for academic growth described in Subsection 53E-5-205(2) or 53E-5-206(2) as follows:
    - (i) the board shall award a school points for growth of the school's students on a statewide assessment of English language arts;
    - (ii) the board shall award a school points for growth of the school's students on a statewide assessment of mathematics; and
    - (iii) the board shall award a school points for growth of the school's students on a statewide assessment of science.
  - (b) The board shall determine points for growth awarded under Subsection (2)(a) by indexing the points based on:
    - (i) whether a student's performance on a statewide assessment is equal to or exceeds the student's academic growth target; and
    - (ii) the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores.
  - (c)
    - (i) The maximum number of total points possible for academic growth described in Subsection (2)(a) is 56 points.
    - (ii) The maximum number of points possible for a component listed in Subsection (2)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (2)(c)(i).
- (3)
  - (a) Subject to Subsection (3)(b), the board shall award to a school points for equitable educational opportunity described in Subsection 53E-5-205(3) or 53E-5-206(3) as follows:
    - (i) the board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of English language arts;
    - (ii) the board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of mathematics;
    - (iii) the board shall award a school points for growth of the school's lowest performing 25% of students on a statewide assessment of science; and

- (iv) except as provided in Section 53E-5-209, the board shall award to a school points proportional to the percentage of English learners who achieve adequate progress as determined by the board on an English learner assessment established by the board.
- (b) The board shall determine points for academic growth awarded under Subsection (3)(a)(i), (ii), or (iii) by indexing the points based on the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores.
- (c)
  - (i) The maximum number of total points possible for equitable educational opportunity described in Subsection (3)(a) is 38 points.
  - (ii) The maximum number of points possible for the components listed in Subsection (3)(a)(i), (ii), and (iii), combined, is 25 points.
  - (iii) The maximum number of points possible for a component listed in Subsection (3)(a)(i), (ii), or (iii) is one-third of the number of the combined points described in Subsection (3)(c)(ii).
  - (iv) The maximum number of points possible for the component listed in Subsection (3)(a)(iv) is 13 points.
- (4)
  - (a) The board shall award to a high school points for postsecondary readiness described in Subsection 53E-5-206(4) as follows:
    - (i) the board shall award to a high school points proportional to the percentage of the school's students who, out of all the school's students who take a college readiness assessment described in Section 53E-4-305, receive a composite score of at least 18 on the assessment;
    - (ii) the board shall award to a high school points proportional to the percentage of the school's students who achieve at least one of the following:
      - (A) a C grade or better in an Advanced Placement course;
      - (B) a C grade or better in a concurrent enrollment course;
      - (C) a C grade or better in an International Baccalaureate course; or
      - (D) completion of a career and technical education pathway, as defined by the board; and
    - (iii) in accordance with Subsection (4)(c), the board shall award to a high school points proportional to the percentage of the school's students who graduate from the school.
  - (b)
    - (i) The maximum number of total points possible for postsecondary readiness described in Subsection (4)(a) is 75 points.
    - (ii) The maximum number of points possible for a component listed in Subsection (4)(a)(i), (ii), or (iii) is one-third of the number of points described in Subsection (4)(b)(i).
  - (c)
    - (i) In calculating the percentage of students who graduate described in Subsection (4)(a)(iii), except as provided in Subsection (4)(c)(ii), the board shall award to a high school points proportional to the percentage of the school's students who graduate from the school within four years.
    - (ii) The board may award up to 10% of the points allocated for high school graduation described in Subsection (4)(b)(ii) to a school for students who graduate from the school within five years.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-208 Calculation of total points awarded -- Maximum number of total points possible.**

- (1) Except as provided in Section 53E-5-209, the board shall calculate the number of total points awarded to a school by totaling the number of points the board awards to the school in accordance with Section 53E-5-207.
- (2) The maximum number of total points possible under Subsection (1) is:
  - (a) for an elementary school or a middle school, 150 points; or
  - (b) for a high school, 225 points.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-209 Exclusion of English learner progress -- Calculation of total points awarded for a school with fewer than 10 English learners.**

- (1) For a school that has fewer than 10 English learners, the board shall:
  - (a) exclude the use of English learner progress in determining the school's overall rating by:
    - (i) awarding no points to the school for English learner progress described in Subsection 53E-5-207(3)(a)(iv); and
    - (ii) excluding the points described in Subsection 53E-5-207(3)(c)(iv) from the school's maximum points possible; and
  - (b) calculate the number of total points awarded to the school by totaling the number of points the board awards to the school in accordance with Section 53E-5-207 subject to the exclusion described in Subsection (1)(a).
- (2) The maximum number of total points possible under Subsection (1) is:
  - (a) for an elementary school or a middle school, 137 points; or
  - (b) for a high school, 212 points.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-210 State Board of Education duties -- Proficient level -- Student growth -- English learner adequate progress.**

- (1)
  - (a) For the purpose of determining whether a student scores at or above the proficient level on a statewide assessment, the board shall determine, through a process that evaluates student performance based on specific criteria, the minimum level that demonstrates proficiency for each statewide assessment.
  - (b) If the board adjusts the minimum level that demonstrates proficiency described in Subsection (1)(a), the board shall report the adjustment and the reason for the adjustment to the Education Interim Committee no later than 30 days after the day on which the board makes the adjustment.
- (2)
  - (a) For the purpose of determining whether a student's performance on a statewide assessment is equal to or exceeds the student's academic growth target, the board shall calculate, for each individual student, the amount of growth necessary to achieve or maintain proficiency by a future school year determined by the board.
  - (b) For the purpose of determining the amount of a student's growth on a statewide assessment compared to other students with similar prior assessment scores, the board shall calculate growth as a percentile for a student using appropriate statistical methods.
- (3) For the purpose of determining whether an English learner achieves adequate progress on an English learner assessment established by the board, the board shall determine the minimum progress that demonstrates adequate progress.



Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-211 Reporting.**

- (1) The board shall annually publish on the board's website a report card that includes for each school:
  - (a) the school's overall rating described in Subsection 53E-5-204(1);
  - (b) the school's performance on each indicator described in:
    - (i) Section 53E-5-205, for an elementary school or a middle school; or
    - (ii) Section 53E-5-206, for a high school;
  - (c) information comparing the school's performance on each indicator described in Subsection (1) with:
    - (i) the average school performance; and
    - (ii) the school's performance in all previous years for which data is available;
  - (d) the percentage of students who participated in statewide assessments;
  - (e) for an elementary school, the percentage of students who read on grade level in grades 1 through 3; and
  - (f) for a high school, performance on Advanced Placement exams.
- (2) A school may include in the school's report card described in Subsection (1) up to two self-reported school quality indicators that:
  - (a) are approved by the board for inclusion; and
  - (b) may include process or input indicators.
- (3)
  - (a) The board shall develop an individualized student achievement report that includes:
    - (i) information on the student's level of proficiency as measured by a statewide assessment; and
    - (ii) a comparison of the student's academic growth target and actual academic growth as measured by a statewide assessment.
  - (b) The board shall, subject to the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, make the individualized student achievement report described in Subsection (3)(a) available for a school district or charter school to access electronically.
  - (c) A school district or charter school shall distribute an individualized student achievement report to the parent or guardian of the student to whom the report applies.

Renumbered and Amended by Chapter 1, 2018 General Session

### **Part 3**

### **School Turnaround and Leadership Development**

**53E-5-301 Definitions.**

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.
- (3) "Charter school governing board" means the governing board, as defined in Section 53G-5-102, that governs a charter.

- (4) "District school" means a public school under the control of a local school board elected under Title 20A, Chapter 14, Nomination and Election of State and Local School Boards.
- (5) "Educator" means the same as that term is defined in Section 53E-6-102.
- (6) "Final remedial year" means the second school year following the initial remedial year.
- (7) "Independent school turnaround expert" or "turnaround expert" means a person identified by the board under Section 53E-5-305.
- (8) "Initial remedial year" means the school year a district school or charter school is designated as a low performing school under Section 53E-5-302.
- (9) "Local education board" means a local school board or charter school governing board.
- (10) "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.
- (11) "Low performing school" means a district school or charter school that has been designated a low performing school by the board because the school is:
  - (a) for two consecutive school years in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school accountability system; and
  - (b) a low performing school according to other outcome-based measures as may be defined in rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (12) "School accountability system" means the school accountability system established in Part 2, School Accountability System.
- (13) "School grade" or "grade" means the letter grade assigned to a school as the school's overall rating under the school accountability system.
- (14) "School turnaround committee" means a committee established under:
  - (a) for a district school, Section 53E-5-303; or
  - (b) for a charter school, Section 53E-5-304.
- (15) "School turnaround plan" means a plan described in:
  - (a) for a district school, Section 53E-5-303; or
  - (b) for a charter school, Section 53E-5-304.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-302 State Board of Education to designate low performing schools -- Needs assessment.**

- (1) Except as provided in Subsection (4), the board shall:
  - (a) annually designate a school as a low performing school; and
  - (b) conduct a needs assessment for a low performing school by thoroughly analyzing the root causes of the low performing school's low performance.
- (2) The board may use up to 5% of the appropriation provided under this part to hire or contract with one or more individuals to conduct a needs assessment described in Subsection (1)(b).
- (3) A school that was designated as a low performing school based on 2015-2016 school year performance that is not in the lowest performing 3% of schools statewide following the 2016-2017 school year is exempt from the provisions of this part.
- (4) The board is not required to designate as a low performing school a school for which the board is not required to assign an overall rating in accordance with Section 53E-5-204.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-303 Required action to turn around a low performing district school.**

- (1) In accordance with deadlines established by the board, a local school board of a low performing school shall:
  - (a) establish a school turnaround committee composed of the following members:
    - (i) the local school board member who represents the voting district where the low performing school is located;
    - (ii) the school principal;
    - (iii) three parents of students enrolled in the low performing school appointed by the chair of the school community council;
    - (iv) one teacher at the low performing school appointed by the principal;
    - (v) one teacher at the low performing school appointed by the school district superintendent; and
    - (vi) one school district administrator;
  - (b) solicit proposals from a turnaround expert identified by the board under Section 53E-5-305;
  - (c) partner with the school turnaround committee to select a proposal;
  - (d) submit the proposal described in Subsection (1)(b) to the board for review and approval; and
  - (e) subject to Subsections (3) and (4), contract with a turnaround expert.
- (2) A proposal described in Subsection (1)(b) shall include a:
  - (a) strategy to address the root causes of the low performing school's low performance identified through the needs assessment described in Section 53E-5-302; and
  - (b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection (4)(b).
- (3) A local school board may not select a turnaround expert that is:
  - (a) the school district; or
  - (b) an employee of the school district.
- (4) A contract between a local school board and a turnaround expert:
  - (a) shall be based on an explicit stipulation of desired outcomes and consequences for not meeting goals, including cancellation of the contract;
  - (b) shall include a scope of work that requires the turnaround expert to at a minimum:
    - (i) develop and implement, in partnership with the school turnaround committee, a school turnaround plan that meets the criteria described in Subsection (5);
    - (ii) monitor the effectiveness of a school turnaround plan through reliable means of evaluation, including on-site visits, observations, surveys, analysis of student achievement data, and interviews;
    - (iii) provide ongoing implementation support and project management for a school turnaround plan;
    - (iv) provide high-quality professional development personalized for school staff that is designed to build:
      - (A) the leadership capacity of the school principal;
      - (B) the instructional capacity of school staff;
      - (C) educators' capacity with data-driven strategies by providing actionable, embedded data practices; and
    - (v) leverage support from community partners to coordinate an efficient delivery of supports to students inside and outside the classroom;
  - (c) may include a scope of work that requires the turnaround expert to:
    - (i) develop sustainable school district and school capacities to effectively respond to the academic and behavioral needs of students in high poverty communities; or
    - (ii) other services that respond to the needs assessment conducted under Section 53E-5-302;
  - (d) shall include travel costs and payment milestones; and

- (e) may include pay for performance provisions.
- (5) A school turnaround committee shall partner with the turnaround expert selected under Subsection (1) to develop and implement a school turnaround plan that:
  - (a) addresses the root causes of the low performing school's low performance identified through the needs assessment described in Section 53E-5-302;
  - (b) includes recommendations regarding changes to the low performing school's personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, policies, or other areas that may be necessary to implement the school turnaround plan;
  - (c) includes measurable student achievement goals and objectives and benchmarks by which to measure progress;
  - (d) includes a professional development plan that identifies a strategy to address problems of instructional practice;
  - (e) includes a detailed budget specifying how the school turnaround plan will be funded;
  - (f) includes a plan to assess and monitor progress;
  - (g) includes a plan to communicate and report data on progress to stakeholders; and
  - (h) includes a timeline for implementation.
- (6) A local school board of a low performing school shall:
  - (a) prioritize school district funding and resources to the low performing school;
  - (b) grant the low performing school streamlined authority over staff, schedule, policies, budget, and academic programs to implement the school turnaround plan; and
  - (c) assist the turnaround expert and the low performing school with:
    - (i) addressing the root cause of the low performing school's low performance; and
    - (ii) the development or implementation of a school turnaround plan.
- (7)
  - (a) On or before June 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the local school board for approval.
  - (b) Except as provided in Subsection (7)(c), on or before July 1 of an initial remedial year, a local school board of a low performing school shall submit the school turnaround plan to the board for approval.
  - (c) If the local school board does not approve the school turnaround plan submitted under Subsection (7)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection 53E-5-305(6).
- (8) A local school board, or a local school board's designee, shall annually report to the board progress toward the goals, benchmarks, and timetable in a low performing school's turnaround plan.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-304 Required action to terminate or turn around a low performing charter school.**

- (1) In accordance with deadlines established by the board, a charter school authorizer of a low performing school shall initiate a review to determine whether the charter school is in compliance with the school's charter agreement described in Section 53G-5-303, including the school's established minimum standards for student achievement.
- (2) If a low performing school is found to be out of compliance with the school's charter agreement, the charter school authorizer may terminate the school's charter in accordance with Section 53G-5-503.

- (3) A charter school authorizer shall make a determination on the status of a low performing school's charter under Subsection (2) on or before a date specified by the board in an initial remedial year.
- (4) In accordance with deadlines established by the board, if a charter school authorizer does not terminate a low performing school's charter under Subsection (2), a charter school governing board of a low performing school shall:
  - (a) establish a school turnaround committee composed of the following members:
    - (i) a member of the charter school governing board, appointed by the chair of the charter school governing board;
    - (ii) the school principal;
    - (iii) three parents of students enrolled in the low performing school, appointed by the chair of the charter school governing board; and
    - (iv) two teachers at the low performing school, appointed by the school principal;
  - (b) solicit proposals from a turnaround expert identified by the board under Section 53E-5-305;
  - (c) partner with the school turnaround committee to select a proposal;
  - (d) submit the proposal described in Subsection (4)(b) to the board for review and approval; and
  - (e) subject to Subsections (6) and (7), contract with a turnaround expert.
- (5) A proposal described in Subsection (4)(b) shall include a:
  - (a) strategy to address the root causes of the low performing school's low performance identified through the needs assessment described in Section 53E-5-302; and
  - (b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection 53E-5-303(4)(b).
- (6) A charter school governing board may not select a turnaround expert that:
  - (a) is a member of the charter school governing board;
  - (b) is an employee of the charter school; or
  - (c) has a contract to operate the charter school.
- (7) A contract entered into between a charter school governing board and a turnaround expert shall include and reflect the requirements described in Subsection 53E-5-303(4).
- (8)
  - (a) A school turnaround committee shall partner with the independent school turnaround expert selected under Subsection (4) to develop and implement a school turnaround plan that includes the elements described in Subsection 53E-5-303(5).
  - (b) A charter school governing board shall assist a turnaround expert and a low performing charter school with:
    - (i) addressing the root cause of the low performing school's low performance; and
    - (ii) the development or implementation of a school turnaround plan.
- (9)
  - (a) On or before June 1 of an initial remedial year, a school turnaround committee shall submit the school turnaround plan to the charter school governing board for approval.
  - (b) Except as provided in Subsection (9)(c), on or before July 1 of an initial remedial year, a charter school governing board of a low performing school shall submit the school turnaround plan to the board for approval.
  - (c) If the charter school governing board does not approve the school turnaround plan submitted under Subsection (9)(a), the school turnaround committee may appeal the disapproval in accordance with rules made by the board as described in Subsection 53E-5-305(6).
- (10) The provisions of this part do not modify or limit a charter school authorizer's authority at any time to terminate a charter school's charter in accordance with Section 53G-5-503.

- (11) A charter school governing board or a charter school governing board's designee shall annually report to the board progress toward the goals, benchmarks, and timetable in a low performing school's turnaround plan.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-305 State Board of Education to identify independent school turnaround experts -- Review and approval of school turnaround plans -- Appeals process.**

- (1) The board shall identify two or more approved independent school turnaround experts, through a standard procurement process, that a low performing school may contract with to:
- (a) respond to the needs assessment conducted under Section 53E-5-302; and
  - (b) provide the services described in Section 53E-5-303 or 53E-5-304, as applicable.
- (2) In identifying independent school turnaround experts under Subsection (1), the board shall identify experts that:
- (a) have a credible track record of improving student academic achievement in public schools with various demographic characteristics, as measured by statewide assessments described in Section 53E-4-301;
  - (b) have experience designing, implementing, and evaluating data-driven instructional systems in public schools;
  - (c) have experience coaching public school administrators and teachers on designing data-driven school improvement plans;
  - (d) have experience working with the various education entities that govern public schools;
  - (e) have experience delivering high-quality professional development in instructional effectiveness to public school administrators and teachers; and
  - (f) are willing to partner with any low performing school in the state, regardless of location.
- (3)
- (a) The board shall:
    - (i) review a proposal submitted for approval under Section 53E-5-303 or 53E-5-304 no later than 30 days after the day on which the proposal is submitted;
    - (ii) review a school turnaround plan submitted for approval under Subsection 53E-5-303(7)(b) or under Subsection 53E-5-304(9)(b) within 30 days of submission; and
    - (iii) approve a school turnaround plan that:
      - (A) is timely;
      - (B) is well-developed; and
      - (C) meets the criteria described in Subsection 53E-5-303(5).
  - (b) The board may not approve a school turnaround plan that is not aligned with the needs assessment conducted under Section 53E-5-302.
- (4)
- (a) Subject to legislative appropriations, when a school turnaround plan is approved by the board, the board shall distribute funds to each local education board with a low performing school to carry out the provisions of Sections 53E-5-303 and 53E-5-304.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing a distribution method and allowable uses of the funds described in Subsection (4)(a).
- (5) The board shall:
- (a) monitor and assess progress toward the goals, benchmarks and timetable in each school turnaround plan; and
  - (b) act as a liaison between a local school board, low performing school, and turnaround expert.

- (6)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to establish an appeals process for:
    - (i) a low performing district school that is not granted approval from the district school's local school board under Subsection 53E-5-303(7)(b);
    - (ii) a low performing charter school that is not granted approval from the charter school's charter school governing board under Subsection 53E-5-304(9)(b); and
    - (iii) a local school board or charter school governing board that is not granted approval from the board under Subsection (3)(a) or (b).
  - (b) The board shall ensure that rules made under Subsection (6)(a) require an appeals process described in:
    - (i) Subsections (6)(a)(i) and (ii) to be resolved on or before July 1 of the initial remedial year; and
    - (ii) Subsection (6)(a)(iii) to be resolved on or before August 15 of the initial remedial year.
- (7) The board may use up to 4% of the funds appropriated by the Legislature to carry out the provisions of this part for administration if the amount for administration is approved by the board in an open meeting.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-306 Implications for failing to improve school performance.**

- (1) As used in this section, "high performing charter school" means a charter school that:
- (a) satisfies all requirements of state law and board rules;
  - (b) meets or exceeds standards for student achievement established by the charter school's charter school authorizer; and
  - (c) has received at least a B grade under the school accountability system in the previous two school years.
- (2)
- (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:
    - (i) exit criteria for a low performing school;
    - (ii) criteria for granting a school an extension as described in Subsection (3); and
    - (iii) implications for a low performing school that does not meet exit criteria after the school's final remedial year or the last school year of the extension period described in Subsection (3).
  - (b) In establishing exit criteria for a low performing school the board shall:
    - (i) determine for each low performing school the number of points awarded under the school accountability system in the final remedial year that represent a substantive and statistically significant improvement over the number of points awarded under the school accountability system in the school year immediately preceding the initial remedial year;
    - (ii) establish a method to estimate the exit criteria after a low performing school's first remedial year to provide a target for each low performing school; and
    - (iii) use generally accepted statistical practices.
  - (c) The board shall through a competitively awarded contract engage a third party with expertise in school accountability and assessments to verify the criteria adopted under this Subsection (2).
- (3)

- (a) A low performing school may petition the board for an extension to continue school improvement efforts for up to two years if the low performing school does not meet the exit criteria established by the board as described in Subsection (2).
- (b) A school that has been granted an extension under this Subsection (3) is eligible for:
  - (i) continued funding under Section 53E-5-305; and
  - (ii)
    - (A) the school teacher recruitment and retention incentive under Section 53E-5-308; or
    - (B) the School Recognition and Reward Program under Section 53E-5-307.
- (4) If a low performing school does not meet exit criteria after the school's final remedial year or the last school year of the extension period, the board may intervene by:
  - (a) restructuring a district school, which may include:
    - (i) contract management;
    - (ii) conversion to a charter school; or
    - (iii) state takeover;
  - (b) restructuring a charter school by:
    - (i) terminating a school's charter;
    - (ii) closing a charter school; or
    - (iii) transferring operation and control of the charter school to:
      - (A) a high performing charter school; or
      - (B) the school district in which the charter school is located; or
  - (c) other appropriate action as determined by the board.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-307 School Recognition and Reward Program.**

- (1) As used in this section, "eligible school" means a low performing school that:
  - (a) was designated as a low performing school based on 2014-2015 school year performance; and
  - (b)
    - (i) improves the school's grade by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the final remedial year; or
    - (ii)
      - (A) has been granted an extension under Subsection 53E-5-306(3); and
      - (B) improves the school's grade by at least one letter grade, as determined by comparing the school's letter grade for the school year prior to the initial remedial year to the school's letter grade for the last school year of the extension period.
- (2) The School Recognition and Reward Program is created to provide incentives to schools and educators to improve the school grade of a low performing school.
- (3) Subject to appropriations by the Legislature, upon the release of school grades by the board, the board shall distribute a reward equal to:
  - (a) for an eligible school that improves the eligible school's grade one letter grade:
    - (i) \$100 per tested student; and
    - (ii) \$1,000 per educator;
  - (b) for an eligible school that improves the eligible school's grade two letter grades:
    - (i) \$200 per tested student; and
    - (ii) \$2,000 per educator;
  - (c) for an eligible school that improves the eligible school's grade three letter grades:



- (i) \$300 per tested student; and
- (ii) \$3,000 per educator; and
- (d) for an eligible school that improves the eligible school's grade four letter grades:
  - (i) \$500 per tested student; and
  - (ii) \$5,000 per educator.
- (4) The principal of an eligible school that receives a reward under Subsection (3), in consultation with the educators at the eligible school, may determine how to use the money in the best interest of the school, including providing bonuses to educators.
- (5) If the number of qualifying eligible schools exceeds available funds, the board may reduce the amounts specified in Subsection (3).
- (6) A local school board of an eligible school, in coordination with the eligible school's turnaround committee, may elect to receive a reward under this section or receive funds described in Section 53E-5-308 but not both.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-308 Turnaround school teacher recruitment and retention.**

- (1) As used in this section, "plan" means a teacher recruitment and retention plan.
- (2) On a date specified by the board, a local education board of a low performing school shall submit to the board for review and approval a plan to address teacher recruitment and retention in a low performing school.
- (3) The board shall:
  - (a) review a plan submitted under Subsection (2);
  - (b) approve a plan if the plan meets criteria established by the board in rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
  - (c) subject to legislative appropriations, provide funding to a local education board for teacher recruitment and retention efforts identified in an approved plan if the local education board provides matching funds in an amount equal to at least the funding the low performing school would receive from the board.
- (4) The money distributed under this section may only be expended to fund teacher recruitment and retention efforts identified in an approved plan.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-309 School Leadership Development Program.**

- (1) As used in this section, "school leader" means a school principal or assistant principal.
- (2) There is created the School Leadership Development Program to increase the number of highly effective school leaders capable of:
  - (a) initiating, achieving, and sustaining school improvement efforts; and
  - (b) forming and sustaining community partnerships as described in Section 53F-5-402.
- (3) The board shall identify one or more providers, through a request for proposals process, to develop or provide leadership development training for school leaders that:
  - (a) may provide in-depth training in proven strategies to turn around low performing schools;
  - (b) may emphasize hands-on and job-embedded learning;
  - (c) aligns with the state's leadership standards established by board rule;
  - (d) reflects the needs of a school district or charter school where a school leader serves;
  - (e) may include training on using student achievement data to drive decisions;
  - (f) may develop skills in implementing and evaluating evidence-based instructional practices;

- (g) may develop skills in leading collaborative school improvement structures, including professional learning communities; and
  - (h) includes instruction on forming and sustaining community partnerships as described in Section 53F-5-402.
- (4) Subject to legislative appropriations, the State Board of Education shall provide incentive pay to a school leader who:
- (a) completes leadership development training under this section; and
  - (b) agrees to work, for at least five years, in a school that received an F grade or D grade under the school accountability system in the school year previous to the first year the school leader:
    - (i) completes leadership development training; and
    - (ii) begins to work, or continues to work, in a school described in this Subsection (4)(b).
- (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules specifying:
- (a) eligibility criteria for a school leader to participate in the School Leadership Development Program;
  - (b) application procedures for the School Leadership Development Program;
  - (c) criteria for selecting school leaders from the application pool; and
  - (d) procedures for awarding incentive pay under Subsection (4).

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-310 Reporting requirement.**

On or before November 30 of each year, the board shall report to the Education Interim Committee on the provisions of this part.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-5-311 Coordination with the Partnerships for Student Success Grant Program.**

If a low performing school is a member of a partnership that receives a grant under Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program, the school turnaround committee shall:

- (1) coordinate the school turnaround committee's efforts with the efforts of the partnership; and
- (2) ensure that the goals and outcomes of the partnership are aligned with the school turnaround plan described in this part.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Chapter 6 Education Professional Licensure**

### **Part 1 General Provisions**

**53E-6-101 Title.**

This chapter is known as "Education Professional Licensure."

Enacted by Chapter 1, 2018 General Session

**53E-6-102 Definitions.**

As used in this chapter:

- (1) "Board" means the State Board of Education.
- (2) "Certificate" means a license issued by a governmental jurisdiction outside the state.
- (3) "Educator" means:
  - (a) a person who holds a license;
  - (b) a teacher, counselor, administrator, librarian, or other person required, under rules of the board, to hold a license; or
  - (c) a person who is the subject of an allegation which has been received by the board or UPPAC and was, at the time noted in the allegation, a license holder or a person employed in a position requiring licensure.
- (4) "License" means an authorization issued by the board that permits the holder to serve in a professional capacity in the public schools.
- (5) "National Board certification" means a current certificate issued by the National Board for Professional Teaching Standards.
- (6) "Rule" means an administrative rule adopted by the board under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (7) "School" means a public or private entity that provides educational services to a minor child.
- (8) "UPPAC" means the Utah Professional Practices Advisory Commission.

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 22, 2018 General Session

**53E-6-103 Legislative findings on teacher quality -- Declaration of education as a profession.**

- (1)
  - (a) The Legislature acknowledges that education is perhaps the most important function of state and local governments, recognizing that the future success of our state and nation depend in large part upon the existence of a responsible and educated citizenry.
  - (b) The Legislature further acknowledges that the primary responsibility for the education of children within the state resides with their parents or guardians and that the role of state and local governments is to support and assist parents in fulfilling that responsibility.
- (2)
  - (a) The Legislature finds that:
    - (i) quality teaching is the basic building block of successful schools and, outside of home and family circumstances, the essential component of student achievement;
    - (ii) the high quality of teachers is absolutely essential to enhance student achievement and to assure educational excellence in each classroom in the state's public schools; and
    - (iii) the implementation of a comprehensive continuum of data-driven strategies regarding recruitment, preservice, licensure, induction, professional development, and evaluation is essential if the state and its citizens expect every classroom to be staffed by a skilled, caring, and effective teacher.
  - (b) In providing for the safe and effective performance of the function of educating Utah's children, the Legislature further finds it to be of critical importance that education, including

instruction, administrative, and supervisory services, be recognized as a profession, and that those who are licensed or seek to become licensed and to serve as educators:

- (i) meet high standards both as to qualifications and fitness for service as educators through quality recruitment and preservice programs before assuming their responsibilities in the schools;
- (ii) maintain those standards in the performance of their duties while holding licenses, in large part through participating in induction and ongoing professional development programs focused on instructional improvement;
- (iii) receive fair, systematic evaluations of their performance at school for the purpose of enhancing the quality of public education and student achievement; and
- (iv) have access to a process for fair examination and review of allegations made against them and for the administration of appropriate sanctions against those found, in accordance with due process, to have failed to conduct themselves in a manner commensurate with their authority and responsibility to provide appropriate professional services to the children of the state.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Part 2**

### **Licensing**

#### **53E-6-201 Board licensure.**

- (1) To be fully implemented by July 1, 2020, and, if technology and funds are available, the board shall establish in rule a system for educator licensing that includes:
  - (a) an associate educator license that permits an individual to provide educational services in a public school while working to meet the requirements of a professional educator license;
  - (b) a professional educator license that permits an individual to provide educational services in a public school after demonstrating that the individual meets licensure requirements established in board rule; and
  - (c) an LEA-specific educator license issued by the board at the request of an LEA's governing body that is valid for an individual to provide educational services in the requesting LEA's schools.
- (2) An individual employed in a position that requires licensure by the board shall hold the license that is appropriate to the position.
- (3)
  - (a) The board may by rule rank, endorse, or otherwise classify licenses and establish the criteria for obtaining, retaining, and reinstating licenses.
  - (b) An educator who is enrolling in a course of study at an institution within the state system of higher education to satisfy the board requirements for retaining a license is exempt from tuition, except for a semester registration fee established by the State Board of Regents, if:
    - (i) the educator is enrolled on the basis of surplus space in the class after regularly enrolled students have been assigned and admitted to the class in accordance with regular procedures, normal teaching loads, and the institution's approved budget; and
    - (ii) enrollments are determined by each institution under rules and guidelines established by the State Board of Regents in accordance with findings of fact that space is available for the educator's enrollment.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 22, 2018 General Session

**53E-6-204 Exemptions from licensure.**

Except as otherwise provided by statute or rule, a spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state may work as an educator without being licensed under this title if:

- (1) the spouse holds a valid educator license issued by any other state or jurisdiction recognized by the board; and
- (2) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

Enacted by Chapter 462, 2018 General Session

### **Part 3**

### **Licensing Requirements**

**53E-6-301 Qualifications of applicants for licenses -- Changes in qualifications.**

- (1) The board shall establish by rule the scholarship, training, and experience required of license applicants.
- (2)
  - (a) The board shall announce any increase in the requirements when made.
  - (b) An increase in requirements shall become effective not less than one year from the date of the announcement.
- (3) The board may determine by examination or otherwise the qualifications of license applicants.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-302 Teacher preparation programs.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish standards for approval of a preparation program.
- (2) The board shall ensure that standards adopted under Subsection (1) meet or exceed generally recognized national standards for preparation of educators.
- (3) The board shall designate an employee of the board's staff to:
  - (a) work with education deans of state institutions of higher education to coordinate on-site monitoring of teacher preparation programs that may include:
    - (i) monitoring courses for teacher preparation programs;
    - (ii) working with course instructors for teacher preparation programs; and
    - (iii) interviewing students admitted to teacher preparation programs;
  - (b) act as a liaison between:
    - (i) the board;
    - (ii) local school boards or charter school governing boards; and
    - (iii) representatives of teacher preparation programs; and
  - (c) report the employee's findings and recommendations for the improvement of teacher preparation programs to:
    - (i) the board; and

- (ii) education deans of state institutions of higher education.
- (4) The board shall:
  - (a) in good faith, consider the findings and recommendations described in Subsection (3)(c); and
  - (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as the board determines is necessary, to implement recommendations described in Subsection (3)(c).

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 22, 2018 General Session

**53E-6-303 Prohibition on use of degrees or credit from unapproved institutions.**

- (1) An individual may not use a postsecondary degree or credit awarded by a postsecondary institution or program to gain a license, employment, or any other benefit within the public school system unless the institution or program was, at the time the degree or credit was awarded:
  - (a) approved for the granting of the degree or credit by the board; or
  - (b) accredited by an accrediting organization recognized by the board.
- (2) The board may grant an exemption from Subsection (1) to an individual who shows good cause for the granting of the exemption.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-307 Certification in other jurisdictions -- Impact on licensing in Utah.**

- (1) An applicant for a license, renewal of a license, or reinstatement of a license shall provide the administrator of teacher licensing with an affidavit, stating under oath the current status of any certificate, license, or other authorization required for a professional position in education, which the applicant holds or has held in any other jurisdiction.
- (2) An applicant for a license who has held a teacher's license in any other jurisdiction or who graduated from an institution of higher education in another state shall also provide the administrator of teacher licensing with:
  - (a) a complete listing of the higher education institutions attended by the applicant, whether the applicant's enrollment or eligibility for completion of a program was terminated by the institution, and, if so, the reasons for termination;
  - (b) a complete list of prior school employers; and
  - (c) a release on a form provided by the administrator permitting the board to obtain records from other jurisdictions and from institutions of higher education attended by the applicant, including expunged or otherwise protected records, relating to any offense described substantially in the same language as in Section 53G-11-405.
- (3) If the applicant's certificate, license, or authorization as an educator in any other jurisdiction is under investigation, has expired or been surrendered, suspended or revoked, or is currently not valid for any other reason, the board may not grant the requested license, renewal, or reinstatement until it has received confirmation from the administrator of professional certification in that jurisdiction that the applicant would be eligible for certification or licensure in that jurisdiction.
- (4) The board may not withhold a license for the sole reason that the applicant would be ineligible for certification, licensure, or authorization in the jurisdiction referred to in Subsection (3) because of failure to meet current requirements in that jurisdiction relating to education, time in service, or residence.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Part 4**

### **Background and Employment Checks**

#### **53E-6-401 Background checks.**

In accordance with Section 53G-11-403, the State Board of Education shall require a license applicant to submit to a criminal background check and ongoing monitoring as a condition for licensing.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-6-402 Board-required licensing or employment recommendations -- Local public school-required licensing recommendations -- Notice requirements for affected parties -- Exemption from liability.**

- (1)
  - (a) The board shall provide the appropriate administrator of a public or private school or of an agency outside the state that is responsible for licensing or certifying educational personnel with a recommendation or other information possessed by the board that has significance in evaluating the employment or license of:
    - (i) a current or prospective school employee;
    - (ii) an educator or education license holder; or
    - (iii) a license applicant.
  - (b) Information supplied under Subsection (1)(a) shall include:
    - (i) the complete record of a hearing; and
    - (ii) the investigative report for matters that:
      - (A) the educator has had an opportunity to contest; and
      - (B) did not proceed to a hearing.
- (2) At the request of the board, an administrator of a public school or school district shall, and an administrator of a private school may, provide the board with a recommendation or other information possessed by the school or school district that has significance in evaluating the:
  - (a) license of an educator or education license holder; or
  - (b) potential licensure of a license applicant.
- (3) If the board decides to deny licensure or to take action against an educator's license based upon information provided under this section, the board shall:
  - (a) give notice of the information to the educator or license applicant; and
  - (b) afford the educator or license applicant an opportunity to respond to the information.
- (4) A person who, in good faith, provides a recommendation or discloses or receives information under this section is exempt from civil and criminal liability relating to that recommendation, receipt, or disclosure.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-6-403 Tie-in with the Criminal Investigations and Technical Services Division.**

- (1) The board shall:

- (a) designate employees to act, with board supervision, as an online terminal agency with the Department of Public Safety's Criminal Investigations and Technical Services Division under Section 53-10-108; and
  - (b) provide relevant information concerning current or prospective employees or volunteers upon request to other school officials as provided in Section 53E-6-402.
- (2) The cost of the online service shall be borne by the entity making the inquiry.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Part 5**

### **Utah Professional Practices Advisory Commission**

#### **53E-6-501 Utah Professional Practices Advisory Commission established.**

The Utah Professional Practices Advisory Commission, UPPAC, is established to assist and advise the board in matters relating to the professional practices of educators.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-6-502 UPPAC members -- Executive secretary.**

- (1) UPPAC shall consist of a nonvoting executive secretary and 11 voting members, nine of whom shall be licensed educators in good standing, and two of whom shall be members nominated by the education organization within the state that has the largest membership of parents of students and teachers.
- (2) Six of the voting members shall be persons whose primary responsibility is teaching.
- (3)
  - (a) The state superintendent of public instruction shall appoint an employee to serve as executive secretary.
  - (b) Voting members are appointed by the superintendent as provided under Section 53E-6-503.
- (4) Board employees shall staff UPPAC activities.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-6-503 Nominations -- Appointment of commission members -- Reappointments.**

- (1)
  - (a) The board shall adopt rules establishing procedures for nominating and appointing individuals to voting membership on UPPAC.
  - (b) Nomination petitions must be filed with the state superintendent prior to June 16 of the year of appointment.
  - (c) A nominee for appointment as a member of UPPAC as an educator must have been employed in the representative class in the Utah public school system or a private school accredited by the board during the three years immediately preceding the date of appointment.
- (2) The state superintendent of public instruction shall appoint the members of the commission.
- (3) Appointments begin July 1 and are for terms of three years and until a successor is appointed.
- (4) Terms of office are staggered so that approximately 1/3 of UPPAC members are appointed annually.



(5) A member may not serve more than two terms.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-504 Filling of vacancies.**

- (1) A UPPAC vacancy occurs if a member resigns, fails to attend three or more meetings during a calendar year, or no longer meets the requirements for nomination and appointment.
- (2) If a vacancy occurs, the state superintendent shall appoint a successor to fill the unexpired term.
- (3) If the superintendent does not fill the vacancy within 60 days, the board shall make the appointment.
- (4) Nominations to fill vacancies are submitted to the superintendent in accordance with procedures established under rules of the board.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-505 Meetings and expenses of UPPAC members.**

- (1) UPPAC shall meet at least quarterly and at the call of the chair or of a majority of the members.
- (2) Members of UPPAC serve without compensation but are allowed reimbursement for actual and necessary expenses under the rules of the Division of Finance.
- (3) The board shall pay reimbursement to UPPAC members out of the Education Fund.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-506 UPPAC duties and procedures.**

- (1) The board may direct UPPAC to review a complaint about an educator and recommend that the board:
  - (a) dismiss the complaint; or
  - (b) investigate the complaint in accordance with this section.
- (2)
  - (a) The board may direct UPPAC to:
    - (i) in accordance with this section, investigate a complaint's allegation or decision; or
    - (ii) hold a hearing.
  - (b) UPPAC may initiate a hearing as part of an investigation.
  - (c) Upon completion of an investigation or hearing, UPPAC shall:
    - (i) provide findings to the board; and
    - (ii) make a recommendation for board action.
  - (d) UPPAC may not make a recommendation described in Subsection (2)(c)(ii) to adversely affect an educator's license unless UPPAC gives the educator an opportunity for a hearing.
- (3)
  - (a) The board may:
    - (i) select an independent investigator to conduct a UPPAC investigation with UPPAC oversight; or
    - (ii) authorize UPPAC to select and oversee an independent investigator to conduct an investigation.
  - (b) In conducting an investigation, UPPAC or an independent investigator shall conduct the investigation independent of and separate from a related criminal investigation.
  - (c) In conducting an investigation, UPPAC or an independent investigator may:

- (i) in accordance with Section 53E-6-606 administer oaths and issue subpoenas; or
- (ii) receive evidence related to an alleged offense, including sealed or expunged records released to the board under Section 77-40-109.
- (d) If UPPAC finds that reasonable cause exists during an investigation, UPPAC may recommend that the board initiate a background check on an educator as described in Section 53G-11-403.
- (e) UPPAC has a rebuttable presumption that an educator committed a sexual offense against a minor child if the educator voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.
- (4) The board may direct UPPAC to:
  - (a) recommend to the board procedures for:
    - (i) receiving and processing complaints;
    - (ii) investigating a complaint's allegation or decision;
    - (iii) conducting hearings; or
    - (iv) reporting findings and making recommendations to the board for board action;
  - (b) recommend to the board or a professional organization of educators:
    - (i) standards of professional performance, competence, and ethical conduct for educators; or
    - (ii) suggestions for improvement of the education profession; or
  - (c) fulfill other duties the board finds appropriate.
- (5) UPPAC may not participate as a party in a dispute relating to negotiations between:
  - (a) a school district and the school district's educators; or
  - (b) a charter school and the charter school's educators.
- (6) The board shall make rules establishing UPPAC duties and procedures.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Part 6**

### **License Denial and Discipline**

#### **53E-6-601 Definition.**

As used in this part "hearing" means a proceeding held in accordance with generally accepted principles of due process and administrative law in which definite issues of fact or of law are tried before a hearing body, and in which proceeding evidence is presented and witnesses heard, and in which the party against whom the proceedings are held has a right to:

- (1) appear with or without counsel to present evidence, confront and cross-examine witnesses, or subpoena witnesses; and
- (2) obtain a decision based solely upon evidence presented to the hearing body in the presence of both parties or representatives of both parties, recognizing that presence is satisfied if a party has been given a reasonable opportunity to attend, even if the party fails to do so.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-6-602 Licensing power of the board -- Licensing final action -- Appeal rights.**

- (1) The board holds the power to license educators.
- (2)

- (a) The board shall take final action with regard to an educator license.
- (b) An entity other than the board may not take final action with regard to an educator license.
- (3)
  - (a) In accordance with Subsection (3)(b), a license applicant or an educator may seek judicial review of a final action made by the board under this chapter.
  - (b) A license applicant or educator may file a petition for judicial review of the board's final action if the license applicant or educator files a petition within 30 days after the day on which the license applicant or educator received notice of the final action.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-603 Ineligibility for educator license.**

- (1) The board may refuse to issue a license to a license applicant if the board finds good cause for the refusal, including behavior of the applicant:
  - (a) found pursuant to a criminal, civil, or administrative matter after reasonable opportunity for the applicant to contest the allegation; and
  - (b) considered, as behavior of an educator, to be:
    - (i) immoral, unprofessional, or incompetent behavior; or
    - (ii) a violation of standards of ethical conduct, performance, or professional competence.
- (2) The board may not issue, renew, or reinstate an educator license if the license applicant or educator:
  - (a) was convicted of a felony of a sexual nature;
  - (b) pled guilty to a felony of a sexual nature;
  - (c) entered a plea of no contest to a felony of a sexual nature;
  - (d) entered a plea in abeyance to a felony of a sexual nature;
  - (e) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
  - (f) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
  - (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:
    - (i) not a minor; and
    - (ii) enrolled in a school where the license applicant or educator is or was employed; or
  - (h) admits to the board or UPPAC that the license applicant or educator committed conduct that amounts to:
    - (i) a felony of a sexual nature; or
    - (ii) a sexual offense or sexually explicit conduct described in Subsection (2)(e), (f), or (g).
- (3) If an individual is ineligible for licensure under Subsection (1) or (2), a public school may not:
  - (a) employ the person in the public school; or
  - (b) allow the person to volunteer in the public school.
- (4)
  - (a) If the board denies licensure under this section, the board shall immediately notify the applicant of:
    - (i) the denial; and
    - (ii) the applicant's right to request a hearing before UPPAC.
  - (b) Upon receipt of a notice described in Subsection (4)(a), an applicant may, within 30 days after the day on which the applicant received the notice, request a hearing before UPPAC for the applicant to review and respond to all evidence upon which the board based the denial.

- (c) If the board receives a request for a hearing described in Subsection (4)(b), the board shall direct UPPAC to hold a hearing.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-604 Board disciplinary action against an educator.**

- (1)
  - (a) The board shall direct UPPAC to investigate an allegation, administrative decision, or judicial decision that evidences an educator is unfit for duty because the educator exhibited behavior that:
    - (i) is immoral, unprofessional, or incompetent; or
    - (ii) violates standards of ethical conduct, performance, or professional competence.
  - (b) If the board determines an allegation or decision described in Subsection (1)(a) does not evidence an educator's unfitness for duty, the board may dismiss the allegation or decision without an investigation or hearing.
- (2) The board shall direct UPPAC to investigate and allow an educator to respond in a UPPAC hearing if the board receives an allegation that the educator:
  - (a) was charged with a felony of a sexual nature;
  - (b) was convicted of a felony of a sexual nature;
  - (c) pled guilty to a felony of a sexual nature;
  - (d) entered a plea of no contest to a felony of a sexual nature;
  - (e) entered a plea in abeyance to a felony of a sexual nature;
  - (f) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
  - (g) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor; or
  - (h) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:
    - (i) not a minor; and
    - (ii) enrolled in a school where the educator is or was employed.
- (3) Upon notice that an educator allegedly violated Section 53E-6-701, the board shall direct UPPAC to:
  - (a) investigate the alleged violation; and
  - (b) hold a hearing to allow the educator to respond to the allegation.
- (4) Upon completion of an investigation or hearing described in this section, UPPAC shall:
  - (a) provide findings to the board; and
  - (b) make a recommendation for board action.
- (5)
  - (a) Except as provided in Subsection (5)(b), upon review of UPPAC's findings and recommendation, the board may:
    - (i) revoke the educator's license;
    - (ii) suspend the educator's license;
    - (iii) restrict or prohibit the educator from renewing the educator's license;
    - (iv) warn or reprimand the educator;
    - (v) enter into a written agreement with the educator that requires the educator to comply with certain conditions;
    - (vi) direct UPPAC to further investigate or gather information; or
    - (vii) take other action the board finds to be appropriate for and consistent with the educator's behavior.

- (b) Upon review of UPPAC's findings and recommendation, the board shall revoke the license of an educator who:
  - (i) was convicted of a felony of a sexual nature;
  - (ii) pled guilty to a felony of a sexual nature;
  - (iii) entered a plea of no contest to a felony of a sexual nature;
  - (iv) entered a plea in abeyance to a felony of a sexual nature;
  - (v) was convicted of a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, against a minor child;
  - (vi) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is a minor;
  - (vii) engaged in sexually explicit conduct, as defined in Section 76-5b-103, with a student who is:
    - (A) not a minor; and
    - (B) enrolled in a school where the educator is or was employed; or
  - (viii) admits to the board or UPPAC that the applicant committed conduct that amounts to:
    - (A) a felony of a sexual nature; or
    - (B) a sexual offense or sexually explicit conduct described in Subsection (5)(b)(v), (vi), or (vii).
- (c) The board may not reinstate a revoked license.
- (d) Before the board takes adverse action against an educator under this section, the board shall ensure that the educator had an opportunity for a UPPAC hearing.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-605 Designation of hearing officer or panel -- Review of findings.**

- (1) UPPAC or a state or local school board charged with responsibility for conducting a hearing may conduct the hearing itself or appoint a hearing officer or panel to conduct the hearing and make recommendations concerning findings.
- (2) UPPAC or the school board shall review the record of the hearing and the recommendations, and may obtain and review, in the presence of the parties or their representatives, additional relevant information, prior to issuing official findings.
- (3) UPPAC shall provide a panel of its members to serve as fact finders in a hearing at the request of the educator who is the subject of the hearing.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-606 Administering of oaths -- Issuance of subpoenas.**

- (1) UPPAC or a state or local school board charged with responsibility for conducting an investigation or a hearing under this chapter may administer oaths and issue subpoenas in connection with the investigation or hearing.
- (2) If a hearing is before a hearing officer or panel, the hearing officer or panel may administer oaths, and the appointing body may issue subpoenas upon the request of the hearing officer or panel.
- (3) Subpoenas shall be enforced upon the petition of the issuing body by the district court in the jurisdiction where the subpoena was issued, in the same manner as subpoenas issued by the court.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-607 Rules for conducting hearings -- Standard of proof.**

- (1) The board and each local school board shall adopt rules for the conduct of hearings to ensure that requirements of due process are met.
- (2) An accused party shall be provided not less than 15 days before a hearing with:
  - (a) notice of the hearing;
  - (b) the law, rule, or policy alleged to have been violated;
  - (c) sufficient information about the allegations and the evidence to be presented in support of the allegations to permit the accused party to prepare a meaningful defense; and
  - (d) a copy of the rules under which the hearing will be conducted.
- (3) If an accused party fails to request a hearing within 30 days after written notice is sent to the party's address as shown on the records of the local board, for actions taken under the auspices of a local board, or on the records of the board, for actions taken under the auspices of the board, then the accused party shall be considered to have waived the right to a hearing and the action may proceed without further delay.
- (4) Hearing fact finders shall use the preponderance of evidence standard in deciding all questions unless a higher standard is required by law.
- (5) Unless otherwise provided in this public education code, the decisions of state and local boards are final determinations under this section, appealable to the appropriate court for review.

Renumbered and Amended by Chapter 1, 2018 General Session

**Part 7**  
**Unprofessional and Unlawful Conduct**

**53E-6-701 Mandatory reporting of physical or sexual abuse of students.**

- (1) For purposes of this section, "educator" means, in addition to a person included under Section 53E-6-102, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.
- (2) In addition to any duty to report suspected cases of child abuse or neglect under Section 62A-4a-403, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report the belief and all other relevant information to the school principal, to the superintendent, or to the board.
- (3) A school administrator who has received a report under Subsection (2) or who otherwise has reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the board.
- (4) Upon notice that an educator allegedly violated Subsection (2) or (3), the board shall direct UPPAC to investigate the educator's alleged violation as described in Section 53E-6-604.
- (5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-702 Reimbursement of legal fees and costs to educators.**

- (1) As used in this section:

- (a) "Action" means any action, except those referred to in Section 52-6-201, brought against an educator by an individual or entity other than:
  - (i) the entity who licenses the educator; and
  - (ii) the LEA that employs the educator or employed the educator at the time of the alleged act or omission.
- (b) "Educator" means an individual who holds or is required to hold a license as defined by the board and is employed by an LEA located within the state.
- (c) "LEA" means a school district, charter school, or the Utah Schools for the Deaf and the Blind.
- (2) Except as otherwise provided in Section 52-6-201, an educator is entitled to recover reasonable attorneys' fees and costs incurred in the educator's defense against an individual or entity who initiates an action against the educator if:
  - (a) the action is brought for any act or omission of the educator during the performance of the educator's duties within the scope of the educator's employment; and
  - (b) it is dismissed or results in findings favorable to the educator.
- (3) An educator who recovers under this section is also entitled to recover reasonable attorneys' fees and costs necessarily incurred by the educator in recovering the attorneys' fees and costs allowed under Subsection (2).

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 22, 2018 General Session

**53E-6-703 Professional competence or performance -- Administrative hearing by local school board -- Action on complaint.**

- (1)
  - (a) No civil action by or on behalf of a student relating to the professional competence or performance of a licensed employee of a school district, or to the discipline of students by a licensed employee, application of in loco parentis, or a violation of ethical conduct by an employee of a school district, may be brought in a court until at least 60 days after the filing of a written complaint with the local board of education of the district, or until findings have been issued by the local board after a hearing on the complaint, whichever is sooner.
  - (b) As used in Subsection (1)(a), "in loco parentis" means the power of professional school personnel to exercise the rights, duties, and responsibilities of a reasonable, responsible parent in dealing with students in school-related matters.
  - (c) A parent of a student has standing to file a civil action against an employee who provides services to a school attended by the student.
- (2) Within 15 days of receiving a complaint under Subsection (1), a local school board may elect to refer the complaint to the State Board of Education.
- (3) If a complaint is referred to the board, no civil action may be brought in a court on matters relating to the complaint until the board has provided a hearing and issued its findings or until 90 days after the filing of the complaint with the local school board, whichever is sooner.

Renumbered and Amended by Chapter 1, 2018 General Session

**Part 8**  
**Dispute Resolution for Contract Negotiations**

**53E-6-801 Mediation of contract negotiations.**

- (1) The president of a professional local organization which represents a majority of the licensed employees of a school district or the chairman or president of a local school board may, after negotiating for 90 days, declare an impasse by written notification to the other party and to the State Board of Education.
- (2) The party declaring the impasse may request the state superintendent of public instruction to appoint a mediator for the purpose of helping to resolve the impasse if the parties to the dispute have not been able to agree on a third party mediator.
- (3) Within five working days after receipt of the written request, the state superintendent shall appoint a mediator who is mutually acceptable to the local school board and the professional organization representing a majority of the licensed employees.
- (4) The mediator shall meet with the parties, either jointly or separately, and attempt to settle the impasse.
- (5) The mediator may not, without the consent of both parties, make findings of fact or recommend terms for settlement.
- (6) Both parties shall equally share the costs of mediation.
- (7) Nothing in this section prevents the parties from adopting a written mediation procedure other than that provided in this section.
- (8) If the parties have a mediation procedure, they shall follow that procedure.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-6-802 Appointment of hearing officer -- Hearing process.**

- (1) If a mediator appointed under Section 53E-6-801 is unable to effect settlement of the controversy within 15 working days after his appointment, either party to the mediation may by written notification to the other party and to the state superintendent of public instruction request that their dispute be submitted to a hearing officer who shall make findings of fact and recommend terms of settlement.
- (2) Within five working days after receipt of the request, the state superintendent of public instruction shall appoint a hearing officer who is mutually acceptable to the local school board and the professional organization representing a majority of the certificated employees.
- (3) The hearing officer may not, without consent of both parties, be the same person who served as mediator.
- (4) The hearing officer shall meet with the parties, either jointly or separately, may make inquiries and investigations, and may issue subpoenas for the production of persons or documents relevant to all issues in dispute.
- (5) The State Board of Education and departments, divisions, authorities, bureaus, agencies, and officers of the state, local school boards, and the professional organization shall furnish the hearing officer, on request, all relevant records, documents, and information in their possession.
- (6) If the final positions of the parties are not resolved before the hearing ends, the hearing officer shall prepare a written report containing the agreements of the parties with respect to all resolved negotiated contract issues and the positions that the hearing officer considers appropriate on all unresolved final positions of the parties.
- (7) The hearing officer shall submit the report to the parties privately within 10 working days after the conclusion of the hearing or within the date established for the submission of posthearing briefs, but not later than 20 working days after the hearing officer's appointment.



- (8) Either the hearing officer, the professional organization, or the local board may make the report public if the dispute is not settled within 10 working days after its receipt from the hearing officer.
- (9)
  - (a) The state superintendent of public instruction may determine the majority status of any professional organization which requests assistance under this section.
  - (b) The decision of the superintendent is final unless it is clearly inconsistent with the evidence.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Part 9**

### **Additional Credentials**

#### **53E-6-901 Substitute teachers.**

- (1) A substitute teacher need not hold a license to teach, but school districts are encouraged to hire licensed personnel as substitutes when available.
- (2) A person must submit to a background check under Section 53G-11-402 prior to employment as a substitute teacher.
- (3) A teacher's position in the classroom may not be filled by an unlicensed substitute teacher for more than a total of 20 days during any school year unless licensed personnel are not available.
- (4) A person who is ineligible to hold a license for any reason other than professional preparation may not serve as a substitute teacher.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-6-902 Teacher leaders.**

- (1) As used in this section, "teacher" means an educator who has an assignment to teach in a classroom.
- (2) There is created the role of a teacher leader to:
  - (a) work with a student teacher and a teacher who supervises a student teacher;
  - (b) assist with the training of a recently hired teacher; and
  - (c) support school-based professional learning.
- (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:
  - (a) define the role of a teacher leader, including the functions described in Subsection (2); and
  - (b) establish the minimum criteria for a teacher to qualify as a teacher leader.
- (4) The board shall solicit recommendations from school districts and educators regarding:
  - (a) appropriate resources to provide a teacher leader; and
  - (b) appropriate ways to compensate a teacher leader.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 22, 2018 General Session

## **Chapter 7 Special Education**

### **Part 1 General Provisions**

#### **53E-7-101 Title.**

This chapter is known as "Special Education."

Enacted by Chapter 1, 2018 General Session

### **Part 2 Special Education Program**

#### **53E-7-201 Definitions.**

Reserved

Enacted by Chapter 1, 2018 General Session

#### **53E-7-202 Education programs for students with disabilities -- Supervision by the State Board of Education -- Enforcement.**

- (1)
  - (a) All students with disabilities, who are 3 years old or older but younger than 22 years old and have not graduated from high school with a regular diploma, are entitled to a free, appropriate public education.
  - (b) For purposes of Subsection (1)(a), if a student with a disability turns 22 during the school year, the entitlement extends to the end of the school year.
  - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Board of Education shall adopt rules consistent with applicable state and federal law to implement this part.
- (2) The rules adopted by the State Board of Education shall include the following:
  - (a) appropriate and timely identification of students with disabilities;
  - (b) diagnosis, evaluation, and classification by qualified personnel;
  - (c) standards for classes and services;
  - (d) provision for multidistrict programs;
  - (e) provision for delivery of service responsibilities;
  - (f) certification and qualifications for instructional staff; and
  - (g) services for dual enrollment students attending public school on a part-time basis under Section 53G-6-702.
- (3)
  - (a) The State Board of Education shall have general control and supervision over all educational programs for students within the state who have disabilities.
  - (b) Those programs must comply with rules adopted by the State Board of Education under this section.
- (4) The state superintendent of public instruction shall enforce this part.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 75, 2018 General Session

**53E-7-204 School district responsibility -- Reimbursement of costs -- Other programs.**

- (1)
  - (a) Each school district shall provide, either singly or in cooperation with other school districts or public institutions, a free, appropriate education program for all students with disabilities who are residents of the district.
  - (b) The program shall include necessary special facilities, instruction, and education-related services.
  - (c) The costs of a district's program, or a district's share of a joint program, shall be paid from district funds.
- (2) School districts that provide special education services under this part in accordance with applicable rules of the State Board of Education shall receive reimbursement from the board under Title 53F, Chapter 2, State Funding -- Minimum School Program, and other applicable laws.
- (3)
  - (a) A school district may, singly or in cooperation with other public entities, provide education and training for persons with disabilities who are:
    - (i) younger than 3 years old; or
    - (ii) older than 22 years old as described in Subsection 53E-7-202(1).
  - (b) The cost of such a program may be paid from fees, contributions, and other funds received by the district for support of the program, but may not be paid from public education funds.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 75, 2018 General Session

**53E-7-205 Participation of students with a disability in extracurricular activities.**

- (1) A student with a disability may not be denied the opportunity of participating in public school programs or extracurricular activities solely because of the student's age, unless the participation threatens the health or safety of the student.
- (2) The school district in cooperation with the Utah Department of Health shall establish criteria used to determine the health and safety factor.
- (3) Subsection (1) applies to a student who:
  - (a) has not graduated from high school with a regular diploma; and
  - (b) is under the age of 20, if participation is recommended by the student's individualized education program team.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-7-206 Services provided by Department of Health.**

The Department of Health shall provide diagnostic and evaluation services, which are required by state or federal law but are not typically otherwise provided by school districts, to students with disabilities.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-7-207 Special education assessments for children in the custody of the Division of Child and Family Services.**

Each school district shall provide an initial special education assessment for children who enter the custody of the Division of Child and Family Services, upon request by that division, for children whose school records indicate that they may have disabilities requiring special education services. The assessment shall be conducted within 30 days of the request by the Division of Child and Family Services.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-7-208 Resolution of disputes in special education -- Hearing request -- Timelines -- Levels -- Appeal process -- Recovery of costs.**

- (1) The Legislature finds that it is in the best interest of students with disabilities to provide for a prompt and fair final resolution of disputes which may arise over educational programs and rights and responsibilities of students with disabilities, their parents, and the public schools.
- (2) Therefore, the State Board of Education shall adopt rules meeting the requirements of 20 U.S.C. Section 1415 governing the establishment and maintenance of procedural safeguards for students with disabilities and their parents or guardians as to the provision of free, appropriate public education to those students.
- (3) The timelines established by the board shall provide adequate time to address and resolve disputes without unnecessarily disrupting or delaying the provision of free, appropriate public education for students with disabilities.
- (4) Prior to seeking a hearing or other formal proceedings, the parties to a dispute under this section shall make a good faith effort to resolve the dispute informally at the school building level.
- (5)
  - (a) If the dispute is not resolved under Subsection (4), a party may request a due process hearing.
  - (b) The hearing shall be conducted under rules adopted by the board in accordance with 20 U.S.C. Section 1415.
- (6)
  - (a) A party to the hearing may appeal the decision issued under Subsection (5) to a court of competent jurisdiction under 20 U.S.C. Section 1415(i).
  - (b) The party must file the judicial appeal within 30 days after issuance of the due process hearing decision.
- (7) If the parties fail to reach agreement on payment of attorney fees, then a party seeking recovery of attorney fees under 20 U.S.C. Section 1415(i) for a special education administrative action shall file a court action within 30 days after issuance of a decision under Subsection (5).

Renumbered and Amended by Chapter 1, 2018 General Session

**Part 3**  
**Braille Requirements for Blind Students**

**53E-7-301 Definitions.**

As used in this part:

- (1) "Blind student" means an individual, who is 3 years old or older but younger than 22 years old and eligible for special education services, who:
  - (a) has a visual acuity of 20/200 or less in the better eye with correcting lenses or has a limited field of vision such that the widest diameter subtends an angular distance no greater than 20 degrees;
  - (b) has a medically indicated expectation of visual deterioration; or
  - (c) has functional blindness.
- (2) "Braille" means the system of reading and writing through touch, commonly known as English Braille.
- (3) "Functional blindness" means a visual impairment that renders a student unable to read or write print at a level commensurate with the student's cognitive abilities.
- (4) "Individualized education program" or "IEP" means a written statement developed for a student eligible for special education services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. Section 1414(d).

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 75, 2018 General Session

**53E-7-302 Braille skills assessment -- Development of individualized education program.**

- (1) Any assessment required for a blind student shall include a Braille-related or Braille skills assessment, including a statement of the individual's present level of performance.
- (2)
  - (a) Prior to determining whether a blind student should use Braille as the primary reading mode, the student's IEP team must be provided with detailed information about the use and efficiency of Braille as a reading medium.
  - (b) The team shall acquire the information through pertinent literature or discussions with competent Braille users and educators, or both, in order to make an informed choice as to the student's primary reading mode.
- (3) In developing an IEP for each blind student, there is a presumption that proficiency in Braille is essential for the student to achieve satisfactory educational progress.
- (4) The use of and instruction in Braille are not required under this section if, in the course of developing the student's IEP, the team determines that the student's visual impairment does not significantly affect reading and writing performance commensurate with ability.
- (5) Nothing in this section requires the exclusive use of Braille if other special education services are appropriate to meet the student's educational needs.
- (6) The provision of other appropriate special education services does not preclude the use of Braille or Braille instruction.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-7-303 Instruction in reading and writing of Braille.**

- (1) Instruction in the reading and writing of Braille shall be sufficient to enable each blind student to communicate effectively and efficiently with the same level of proficiency expected of the student's peers of comparable ability and grade level.
- (2) The student's IEP shall specify:
  - (a) the results obtained from the skills assessment required under Section 53E-7-302;
  - (b) the manner in which Braille is to be implemented as a reading mode for learning in other academic activities;

- (c) the date on which Braille instruction shall begin;
- (d) the length of the period of instruction and the frequency and duration of each instructional session;
- (e) the projected level of competency in the reading and writing of Braille to be achieved by the end of the IEP period and the objective assessment measures to be used; and
- (f) if a decision has been made under Section 53E-7-302 that Braille instruction or use is not required for the student:
  - (i) a statement that the decision was reached after fully complying with Subsection 53E-7-302(2); and
  - (ii) a statement of the reasons for choosing another reading mode.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-7-304 Braille versions of textbooks.**

- (1) As a condition of the annual contract for instructional materials process and as a condition of textbook acceptance, the State Board of Education shall require publishers of textbooks recommended by the board to furnish, on request, their textbooks and related instructional materials in an electronic file set, in conformance with the National Instructional Materials Accessibility Standard, from which Braille versions of all or part of the textbook and related instructional materials can be produced.
- (2) When Braille translation software for specialty code translation becomes available, publishers shall furnish, on request, electronic file sets, in conformance with the National Instructional Materials Accessibility Standard, for nonliterary subjects such as mathematics and science.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Chapter 8**

### **Utah Schools for the Deaf and the Blind**

#### **Part 1**

#### **General Provisions**

**53E-8-101 Title.**

This chapter is known as "Utah Schools for the Deaf and the Blind."

Enacted by Chapter 1, 2018 General Session

**53E-8-102 Definitions.**

As used in this chapter:

- (1) "Advisory council" means the Advisory Council for the Utah Schools for the Deaf and the Blind.
- (2) "Alternate format" includes braille, audio, or digital text, or large print.
- (3) "Associate superintendent" means:
  - (a) the associate superintendent of the Utah School for the Deaf; or
  - (b) the associate superintendent of the Utah School for the Blind.
- (4) "Blind" means:

- (a) if the person is three years of age or older but younger than 22 years of age, having a visual impairment that, even with correction, adversely affects educational performance or substantially limits one or more major life activities; and
  - (b) if the person is younger than three years of age, having a visual impairment.
- (5) "Blindness" means an impairment in vision in which central visual acuity:
- (a) does not exceed 20/200 in the better eye with correcting lenses; or
  - (b) is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.
- (6) "Board" means the State Board of Education.
- (7) "Cortical visual impairment" means a neurological visual disorder:
- (a) that:
    - (i) affects the visual cortex or visual tracts of the brain;
    - (ii) is caused by damage to the visual pathways to the brain;
    - (iii) affects a person's visual discrimination, acuity, processing, and interpretation; and
    - (iv) is often present in conjunction with other disabilities or eye conditions that cause visual impairment; and
  - (b) in which the eyes and optic nerves of the affected person appear normal and the person's pupil responses are normal.
- (8) "Deaf" means:
- (a) if the person is three years of age or older but younger than 22 years of age, having hearing loss, whether permanent or fluctuating, that, even with amplification, adversely affects educational performance or substantially limits one or more major life activities; and
  - (b) if the person is younger than three years of age, having hearing loss.
- (9) "Deafblind" means:
- (a) if the person is three years of age or older but younger than 22 years of age:
    - (i) deaf;
    - (ii) blind; and
    - (iii) having hearing loss and visual impairments that cause such severe communication and other developmental and educational needs that the person cannot be accommodated in special education programs solely for students who are deaf or blind; or
  - (b) if the person is younger than three years of age, having both hearing loss and vision impairments that are diagnosed as provided in Section 53E-8-401.
- (10) "Deafness" means a hearing loss so severe that the person is impaired in processing linguistic information through hearing, with or without amplification.
- (11) "Educator" means a person who holds:
- (a)
    - (i) a license issued under Chapter 6, Education Professional Licensure; and
    - (ii) a position as:
      - (A) a teacher;
      - (B) a speech pathologist;
      - (C) a librarian or media specialist;
      - (D) a preschool teacher;
      - (E) a guidance counselor;
      - (F) a school psychologist;
      - (G) an audiologist; or
      - (H) an orientation and mobility specialist; or
  - (b)
    - (i) a bachelor's degree or higher;

- (ii) credentials from the governing body of the professional's area of practice; and
- (iii) a position as:
  - (A) a Parent Infant Program consultant;
  - (B) a deafblind consultant;
  - (C) a school nurse;
  - (D) a physical therapist;
  - (E) an occupational therapist;
  - (F) a social worker; or
  - (G) a low vision specialist.
- (12) "Functional blindness" means a disorder in which the physical structures of the eye may be functioning, but the person does not attend to, examine, utilize, or accurately process visual information.
- (13) "Functional hearing loss" means a central nervous system impairment that results in abnormal auditory perception, including an auditory processing disorder or auditory neuropathy/dys-synchrony, in which parts of the auditory system may be functioning, but the person does not attend to, respond to, localize, utilize, or accurately process auditory information.
- (14) "Hard of hearing" means having a hearing loss, excluding deafness.
- (15) "Individualized education program" or "IEP" means:
  - (a) a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; or
  - (b) an individualized family service plan developed:
    - (i) for a child with a disability who is younger than three years of age; and
    - (ii) in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (16) "LEA" means a local education agency that has administrative control and direction for public education.
- (17) "LEA of record" means the school district of residence of a student as determined under Section 53G-6-302.
- (18) "Low vision" means an impairment in vision in which:
  - (a) visual acuity is at 20/70 or worse; or
  - (b) the visual field is reduced to less than 20 degrees.
- (19) "Parent Infant Program" means a program at the Utah Schools for the Deaf and the Blind that provides services:
  - (a) through an interagency agreement with the Department of Health to children younger than three years of age who are deaf, blind, or deafblind; and
  - (b) to children younger than three years of age who are deafblind through Deafblind Services of the Utah Schools for the Deaf and the Blind.
- (20) "Section 504" means Section 504 of the Rehabilitation Act of 1973.
- (21) "Section 504 accommodation plan" means a plan developed pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, to provide appropriate accommodations to an individual with a disability to ensure access to major life activities.
- (22) "Superintendent" means the superintendent of the Utah Schools for the Deaf and the Blind.
- (23) "Visual impairment" includes partial sightedness, low vision, blindness, cortical visual impairment, functional blindness, and degenerative conditions that lead to blindness or severe loss of vision.

Renumbered and Amended by Chapter 1, 2018 General Session



## **Part 2**

### **Organization, Powers, and Duties**

#### **53E-8-201 Utah Schools for the Deaf and the Blind created -- Designated LEA -- Services statewide.**

- (1) The Utah Schools for the Deaf and the Blind is created as a single public school agency that includes:
  - (a) the Utah School for the Deaf;
  - (b) the Utah School for the Blind;
  - (c) programs for students who are deafblind; and
  - (d) the Parent Infant Program.
- (2) Under the general control and supervision of the board, consistent with the board's constitutional authority, the Utah Schools for the Deaf and the Blind:
  - (a) may provide services to students statewide:
    - (i) who are deaf, blind, or deafblind; or
    - (ii) who are neither deaf, blind, nor deafblind, if allowed under rules of the board established pursuant to Section 53E-8-401; and
  - (b) shall serve as the designated LEA for a student and assume the responsibilities of providing services as prescribed through the student's IEP or Section 504 accommodation plan when the student's LEA of record, parent or legal guardian, and the Utah Schools for the Deaf and the Blind determine that the student be placed at the Utah Schools for the Deaf and the Blind.
- (3) When the Utah Schools for the Deaf and the Blind becomes a student's designated LEA, the LEA of record and the Utah Schools for the Deaf and the Blind shall ensure that all rights and requirements regarding individual student assessment, eligibility, services, placement, and procedural safeguards provided through the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq. and Section 504 of the Rehabilitation Act of 1973, as amended, remain in force.
- (4) Nothing in this section diminishes the responsibility of a student's LEA of record for the education of the student as provided in Chapter 7, Part 2, Special Education Program.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-8-202 Corporate powers -- Property -- Establishment of a foundation.**

- (1) The Utah Schools for the Deaf and the Blind is a public corporation with perpetual succession and a corporate seal.
- (2) The Utah Schools for the Deaf and the Blind may:
  - (a) sue and be sued;
  - (b) contract and be contracted with;
  - (c) take and hold by purchase, gift, devise, or bequest real and personal property required for its uses; and
  - (d) convert property, if not suitable for its use, into other property or money.
- (3) The property of the Utah Schools for the Deaf and the Blind is exempt from taxes and assessments.
- (4) The Utah Schools for the Deaf and the Blind may establish a foundation as described in Section 53E-3-403.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-8-203 Applicability of statutes to the Utah Schools for the Deaf and the Blind.**

- (1) The Utah Schools for the Deaf and the Blind is subject to this public education code and other state laws applicable to public schools, except as otherwise provided by this chapter.
- (2) The following provisions of this public education code do not apply to the Utah Schools for the Deaf and the Blind:
  - (a) provisions governing the budgets, funding, or finances of school districts or charter schools; and
  - (b) provisions governing school construction.
- (3) Except as provided in this chapter, the Utah Schools for the Deaf and the Blind is subject to state laws governing state agencies, including:
  - (a) Title 51, Chapter 5, Funds Consolidation Act;
  - (b) Title 51, Chapter 7, State Money Management Act;
  - (c) Title 52, Chapter 4, Open and Public Meetings Act;
  - (d) Title 63A, Utah Administrative Services Code;
  - (e) Title 63G, Chapter 2, Government Records Access and Management Act;
  - (f) Title 63G, Chapter 4, Administrative Procedures Act;
  - (g) Title 63G, Chapter 6a, Utah Procurement Code;
  - (h) Title 63J, Chapter 1, Budgetary Procedures Act;
  - (i) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
  - (j) Title 67, Chapter 19, Utah State Personnel Management Act.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-8-204 Authority of the State Board of Education -- Rulemaking -- Superintendent -- Advisory Council.**

- (1) The State Board of Education is the governing board of the Utah Schools for the Deaf and the Blind.
- (2)
  - (a) The board shall appoint a superintendent for the Utah Schools for the Deaf and the Blind.
  - (b) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the qualifications, terms of employment, and duties of the superintendent for the Utah Schools for the Deaf and the Blind.
- (3) The superintendent shall:
  - (a) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Deaf based on:
    - (i) demonstrated competency as an expert educator of deaf persons; and
    - (ii) knowledge of school management and the instruction of deaf persons;
  - (b) subject to the approval of the board, appoint an associate superintendent to administer the Utah School for the Blind based on:
    - (i) demonstrated competency as an expert educator of blind persons; and
    - (ii) knowledge of school management and the instruction of blind persons, including an understanding of the unique needs and education of deafblind persons.
- (4)
  - (a) The board shall:

- (i) establish an Advisory Council for the Utah Schools for the Deaf and the Blind and appoint no more than 11 members to the advisory council;
  - (ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operation of the advisory council; and
  - (iii) receive and consider the advice and recommendations of the advisory council but is not obligated to follow the recommendations of the advisory council.
- (b) The advisory council described in Subsection (4)(a) shall include at least:
- (i) two members who are blind;
  - (ii) two members who are deaf; and
  - (iii) two members who are deafblind or parents of a deafblind child.
- (5) The board shall approve the annual budget and expenditures of the Utah Schools for the Deaf and the Blind.
- (6)
- (a) On or before the November interim meeting each year, the board shall report to the Education Interim Committee on the Utah Schools for the Deaf and the Blind.
- (b) The board shall ensure that the report described in Subsection (6)(a) includes:
- (i) a financial report;
  - (ii) a report on the activities of the superintendent and associate superintendents;
  - (iii) a report on activities to involve parents and constituency and advocacy groups in the governance of the school; and
  - (iv) a report on student achievement, including:
    - (A) longitudinal student achievement data for both current and previous students served by the Utah Schools for the Deaf and the Blind;
    - (B) graduation rates; and
    - (C) a description of the educational placement of students exiting the Utah Schools for the Deaf and the Blind.

Renumbered and Amended by Chapter 1, 2018 General Session

### **Part 3**

### **Educators**

#### **53E-8-301 Educators exempt from Department of Human Resource Management rules -- Collective bargaining agreement.**

- (1) Educators employed by the Utah Schools for the Deaf and the Blind are exempt from mandatory compliance with rules of the Department of Human Resource Management.
- (2) The board may enter into a collective bargaining agreement to establish compensation and other personnel policies with educators employed by the Utah Schools for the Deaf and the Blind to replace rules of the Department of Human Resource Management.
- (3) A collective bargaining agreement made under Subsection (2) is subject to the same requirements that are imposed on local school boards by Section 53G-11-202.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-8-302 Annual salary adjustments for educators.**

- (1) In accordance with Section 53F-7-301, the Legislature shall appropriate money to the board for the salary adjustments described in this section.
- (2) The board shall include in its annual budget request for the Utah Schools for the Deaf and the Blind an amount of money sufficient to adjust educators' salaries as described in Subsection (3) and fund step and lane changes.
- (3)
  - (a) The board shall determine the salary adjustment specified in Subsection (2) by:
    - (i) calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state, with the average weighted by the number of teachers in each school district; and
    - (ii) increasing the weighted average salary adjustment by 10% in any year in which teachers of the Utah Schools for the Deaf and the Blind are not ranked in the top 10 in 20-year earnings when compared to earnings of teachers in the school districts of the state.
  - (b) In calculating a weighted average salary adjustment for nonadministrative licensed staff adopted by the school districts of the state under Subsection (3)(a), the board shall exclude educator salary adjustments provided pursuant to Section 53F-2-405.
- (4) From money appropriated to the board for salary adjustments, the board shall adjust the salary schedule applicable to educators at the school each year.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Part 4**

### **Eligibility, Services, and Programs**

#### **53E-8-401 Eligibility for services of the Utah Schools for the Deaf and the Blind.**

- (1) Except as provided in Subsections (3), (4), and (5), a person is eligible to receive services of the Utah Schools for the Deaf and the Blind if the person is:
  - (a) a resident of Utah;
  - (b) younger than 22 years of age;
  - (c) referred to the Utah Schools for the Deaf and the Blind by the person's school district of residence or a local early intervention program; and
  - (d) identified as deaf, blind, or deafblind through:
    - (i) the special education eligibility determination process; or
    - (ii) the Section 504 eligibility determination process.
- (2)
  - (a) In diagnosing a person younger than age three who is deafblind, the following information may be used:
    - (i) ophthalmological and audiological documentation;
    - (ii) functional vision or hearing assessments and evaluations; or
    - (iii) informed clinical opinion conducted by a person with expertise in deafness, blindness, or deafblindness.
  - (b) Informed clinical opinion shall be:
    - (i) included in the determination of eligibility when documentation is incomplete or not conclusive; and

- (ii) based on pertinent records related to the individual's current health status and medical history, an evaluation and observations of the individual's level of sensory functioning, and the needs of the family.
- (3)
  - (a) A student who qualifies for special education shall have services and placement determinations made through the IEP process.
  - (b) A student who qualifies for accommodations under Section 504 shall have services and placement determinations made through the Section 504 team process.
  - (c) A parent or legal guardian of a child who is deaf, blind, or deafblind shall make the final decision regarding placement of the child in a Utah Schools for the Deaf and the Blind program or in a school district or charter school program subject to special education federal regulations regarding due process.
- (4)
  - (a) A nonresident may receive services of the Utah Schools for the Deaf and the Blind in accordance with rules of the board.
  - (b) The rules shall require the payment of tuition for services provided to a nonresident.
- (5) An individual is eligible to receive services from the Utah Schools for the Deaf and the Blind under circumstances described in Section 53E-8-408.
- (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and this chapter, the board:
  - (a) shall make rules that determine the eligibility of students to be served by the Utah Schools for the Deaf and the Blind; and
  - (b) may make rules to allow a resident of Utah who is neither deaf, blind, nor deafblind to receive services of the Utah Schools for the Deaf and the Blind if the student is younger than 22 years of age.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-8-402 Entrance policies and procedures.**

With input from the Utah Schools for the Deaf and the Blind, school districts, parents, and the advisory council, the board shall establish entrance policies and procedures that IEP teams and Section 504 teams are to consider in making placement recommendations at the Utah Schools for the Deaf and the Blind.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-8-403 Educational programs.**

- (1) The Utah Schools for the Deaf and the Blind shall provide an educational program for a student:
  - (a) based on assessments of the student's abilities; and
  - (b) in accordance with the student's IEP or Section 504 accommodation plan.
- (2) If a student's ability to access the core curriculum is impaired primarily due to a severe sensory loss, the Utah Schools for the Deaf and the Blind shall provide an educational program that will enable the student, with accommodations, to access the core curriculum.
- (3) The Utah Schools for the Deaf and the Blind shall provide instruction in Braille to students who are blind as required by Chapter 7, Part 3, Braille Requirements for Blind Students.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-8-404 Administration of statewide assessments.**

The Utah Schools for the Deaf and the Blind shall annually administer, as applicable, the statewide assessments described in Section 53E-4-301, except a student may take an alternative test in accordance with the student's IEP.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-8-405 Collaboration with Department of Health.**

The Utah Schools for the Deaf and the Blind shall collaborate with the Department of Health to provide services to children with disabilities who are younger than three years of age in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-8-406 Programs for deafblind individuals -- State deafblind education specialist.**

- (1) The board shall adopt policies and programs for providing appropriate educational services to individuals who are deafblind.
- (2) Except as provided in Subsection (4), the board shall designate an employee who holds a deafblind certification or equivalent training and expertise to:
  - (a) act as a resource coordinator for the board on public education programs designed for individuals who are deafblind;
  - (b) facilitate the design and implementation of professional development programs to assist school districts, charter schools, and the Utah Schools for the Deaf and the Blind in meeting the educational needs of those who are deafblind; and
  - (c) facilitate the design of and assist with the implementation of one-on-one intervention programs in school districts, charter schools, and at the Utah Schools for the Deaf and the Blind for those who are deafblind, serving as a resource for, or team member of, individual IEP teams.
- (3) The board may authorize and approve the costs of an employee to obtain a deafblind certification or equivalent training and expertise to qualify for the position described in Subsection (2).
- (4) The board may contract with a third party for the services required under Subsection (2).

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-8-407 Educational Enrichment Program for Deaf, Hard of Hearing, and Visually Impaired Students -- Funding for the program.**

- (1) There is established the Educational Enrichment Program for Deaf, Hard of Hearing, and Visually Impaired Students.
- (2) The purpose of the program is to provide opportunities that will, in a family friendly environment, enhance the educational services required for deaf, hard of hearing, blind, or deafblind students.
- (3) The advisory council shall design and implement the program, subject to the approval by the board.
- (4) The program shall be funded from the interest and dividends derived from the permanent funds created for the Utah Schools for the Deaf and the Blind pursuant to Section 12 of the

Utah Enabling Act and distributed by the director of the School and Institutional Trust Lands Administration under Section 53C-3-103.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-8-408 Educational services for an individual with a hearing loss.**

- (1) Subject to Subsection (2), the Utah Schools for the Deaf and the Blind shall provide educational services to an individual:
  - (a) who seeks to receive the educational services; and
  - (b)
    - (i) whose results of a test for hearing loss are reported to the Utah Schools for the Deaf and the Blind in accordance with Section 26-10-6 or 26-10-13; or
    - (ii) who has been diagnosed with a hearing loss by a physician or an audiologist.
- (2) If the individual who will receive the services described in Subsection (1) is a minor, the Utah Schools for the Deaf and the Blind may not provide the services to the individual until after receiving permission from the individual's parent or guardian.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-8-409 Instructional Materials Access Center -- Board to make rules.**

- (1) The board shall collaborate with the Utah Schools for the Deaf and the Blind, school districts, and charter schools in establishing the Utah State Instructional Materials Access Center to provide students with print disabilities access to instructional materials in alternate formats in a timely manner.
- (2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
  - (a) establish the Utah State Instructional Materials Access Center;
  - (b) define how the Educational Resource Center at the Utah Schools for the Deaf and the Blind shall collaborate in the operation of the Utah State Instructional Materials Access Center;
  - (c) specify procedures for the operation of the Utah State Instructional Materials Access Center, including procedures to:
    - (i) identify students who qualify for instructional materials in alternate formats; and
    - (ii) distribute and store instructional materials in alternate formats;
  - (d) establish the contribution of school districts and charter schools towards the cost of instructional materials in alternate formats; and
  - (e) require textbook publishers, as a condition of contract, to provide electronic file sets in conformance with the National Instructional Materials Accessibility Standard.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-8-410 School districts to provide class space for deaf and blind programs.**

- (1) A school district with students who reside within the school district's boundaries and are served by the Schools for the Deaf and the Blind shall:
  - (a) furnish the schools with space required for their programs; or
  - (b) help pay for the cost of leasing classroom space in other school districts.
- (2) A school district's participation in the program under Subsection (1) is based upon the number of students who are served by the Schools for the Deaf and the Blind and who reside within the school district as compared to the state total of students who are served by the schools.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Chapter 9 Student Privacy and Data Protection**

### **Part 1 General Provisions**

#### **53E-9-101 Title.**

This chapter is known as "Student Privacy and Data Protection."

Enacted by Chapter 1, 2018 General Session

### **Part 2 Student Privacy**

#### **53E-9-201 Definitions.**

Reserved

Enacted by Chapter 1, 2018 General Session

#### **53E-9-202 Application of state and federal law to the administration and operation of public schools -- Local school board and charter school governing board policies.**

(1) As used in this section "education entity" means:

- (a) the State Board of Education;
- (b) a local school board or charter school governing board;
- (c) a school district;
- (d) a public school; or
- (e) the Utah Schools for the Deaf and the Blind.

(2) An education entity and an employee, student aide, volunteer, third party contractor, or other agent of an education entity shall protect the privacy of a student, the student's parents, and the student's family and support parental involvement in the education of their children through compliance with the protections provided for family and student privacy under this part and the Family Educational Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h, in the administration and operation of all public school programs, regardless of the source of funding.

(3) A local school board or charter school governing board shall enact policies governing the protection of family and student privacy as required by this part.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-9-203 Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.**



- (1) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, policies adopted by a school district or charter school under Section 53E-9-202 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent or legal guardian, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:
  - (a) political affiliations or, except as provided under Section 53G-10-202 or rules of the State Board of Education, political philosophies;
  - (b) mental or psychological problems;
  - (c) sexual behavior, orientation, or attitudes;
  - (d) illegal, anti-social, self-incriminating, or demeaning behavior;
  - (e) critical appraisals of individuals with whom the student or family member has close family relationships;
  - (f) religious affiliations or beliefs;
  - (g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
  - (h) income, except as required by law.
- (2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.
- (3) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent or legal guardian has been obtained.
- (4)
  - (a) Written parental consent is valid only if a parent or legal guardian has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:
    - (i) records or information, including information about relationships, that may be examined or requested;
    - (ii) the means by which the records or information shall be examined or reviewed;
    - (iii) the means by which the information is to be obtained;
    - (iv) the purposes for which the records or information are needed;
    - (v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
    - (vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.
  - (b) For a survey described in Subsection (1), written notice described in Subsection (4)(a) shall include an Internet address where a parent or legal guardian can view the exact survey to be administered to the parent or legal guardian's student.
- (5)
  - (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, or by order of a court, disclosure to a parent or legal guardian must be given at least two weeks before information protected under this section is sought.
  - (b) Following disclosure, a parent or guardian may waive the two week minimum notification period.

- (c) Unless otherwise agreed to by a student's parent or legal guardian and the person requesting written consent, the authorization is valid only for the activity for which it was granted.
  - (d) A written withdrawal of authorization submitted to the school principal by the authorizing parent or guardian terminates the authorization.
  - (e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.
- (6)
- (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.
  - (b)
    - (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent or guardian without delay.
    - (ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent or guardian of any possible investigation, prior to the student's return home from school.
    - (iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of his parent or guardian, or if that notification is otherwise prohibited by state or federal law.
- (7)
- (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:
    - (i) referring the student to appropriate prevention services; and
    - (ii) informing the student's parent or legal guardian.
  - (b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.
- (8) Local school boards and charter school governing boards shall provide inservice for teachers and administrators on the implementation of this section.
- (9) The board shall provide procedures for disciplinary action for violations of this section.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-9-204 Access to education records -- Training requirement -- Certification.**

- (1) As used in this section, "education record" means the same as that term is defined in the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.
- (2) A local school board or charter school governing board shall require each public school to:
  - (a) create and maintain a list that includes the name and position of each school employee who the public school authorizes, in accordance with Subsection (4), to have access to an education record; and
  - (b) provide the list described in Subsection (2)(a) to the school's local school board or charter school governing board.
- (3) A local school board or charter school governing board shall:

- (a) provide training on student privacy laws; and
- (b) require a school employee on the list described in Subsection (2) to:
  - (i) complete the training described in Subsection (3)(a); and
  - (ii) provide to the local school board or charter school governing board a certified statement, signed by the school employee, that certifies that the school employee completed the training described in Subsection (3)(a) and that the school employee understands student privacy requirements.
- (4)
  - (a) Except as provided in Subsection (4)(b), a local school board, charter school governing board, public school, or school employee may only share an education record with a school employee if:
    - (i) that school employee's name is on the list described in Subsection (2); and
    - (ii) federal and state privacy laws authorize the education record to be shared with that school employee.
  - (b) A local school board, charter school governing board, public school, or school employee may share an education record with a school employee if the board, school, or employee obtains written consent from:
    - (i) the parent or legal guardian of the student to whom the education record relates, if the student is younger than 18 years old; or
    - (ii) the student to whom the education record relates, if the student is 18 years old or older.

Renumbered and Amended by Chapter 1, 2018 General Session

### **Part 3**

### **Student Data Protection**

#### **53E-9-301 Definitions.**

As used in this part:

- (1) "Adult student" means a student who:
  - (a) is at least 18 years old;
  - (b) is an emancipated student; or
  - (c) qualifies under the McKinney-Vento Homeless Education Assistance Improvements Act of 2001, 42 U.S.C. Sec. 11431 et seq.
- (2) "Aggregate data" means data that:
  - (a) are totaled and reported at the group, cohort, school, school district, region, or state level with at least 10 individuals in the level;
  - (b) do not reveal personally identifiable student data; and
  - (c) are collected in accordance with board rule.
- (3)
  - (a) "Biometric identifier" means a:
    - (i) retina or iris scan;
    - (ii) fingerprint;
    - (iii) human biological sample used for valid scientific testing or screening; or
    - (iv) scan of hand or face geometry.
  - (b) "Biometric identifier" does not include:
    - (i) a writing sample;

- (ii) a written signature;
  - (iii) a voiceprint;
  - (iv) a photograph;
  - (v) demographic data; or
  - (vi) a physical description, such as height, weight, hair color, or eye color.
- (4) "Biometric information" means information, regardless of how the information is collected, converted, stored, or shared:
- (a) based on an individual's biometric identifier; and
  - (b) used to identify the individual.
- (5) "Board" means the State Board of Education.
- (6) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that is maintained by an education entity.
- (7) "Data governance plan" means an education entity's comprehensive plan for managing education data that:
- (a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;
  - (b) describes the role, responsibility, and authority of an education entity data governance staff member;
  - (c) provides for necessary technical assistance, training, support, and auditing;
  - (d) describes the process for sharing student data between an education entity and another person;
  - (e) describes the education entity's data expungement process, including how to respond to requests for expungement;
  - (f) describes the data breach response process; and
  - (g) is published annually and available on the education entity's website.
- (8) "Education entity" means:
- (a) the board;
  - (b) a local school board;
  - (c) a charter school governing board;
  - (d) a school district;
  - (e) a charter school;
  - (f) the Utah Schools for the Deaf and the Blind; or
  - (g) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.
- (9) "Expunge" means to seal or permanently delete data, as described in board rule made under Section 53E-9-306.
- (10) "General audience application" means an Internet website, online service, online application, mobile application, or software program that:
- (a) is not specifically intended for use by an audience member that attends kindergarten or a grade from 1 to 12, although an audience member may attend kindergarten or a grade from 1 to 12; and
  - (b) is not subject to a contract between an education entity and a third-party contractor.
- (11) "Higher education outreach student data" means the following student data for a student:
- (a) name;
  - (b) parent name;
  - (c) grade;
  - (d) school and school district; and

- (e) contact information, including:
  - (i) primary phone number;
  - (ii) email address; and
  - (iii) physical address.
- (12) "Individualized education program" or "IEP" means a written statement:
  - (a) for a student with a disability; and
  - (b) that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.
- (13) "Local education agency" or "LEA" means:
  - (a) a school district;
  - (b) a charter school;
  - (c) the Utah Schools for the Deaf and the Blind; or
  - (d) for purposes of implementing the School Readiness Initiative described in Title 53F, Chapter 6, Part 3, School Readiness Initiative, the School Readiness Board created in Section 35A-3-209.
- (14) "Metadata dictionary" means a record that:
  - (a) defines and discloses all personally identifiable student data collected and shared by the education entity;
  - (b) comprehensively lists all recipients with whom the education entity has shared personally identifiable student data, including:
    - (i) the purpose for sharing the data with the recipient;
    - (ii) the justification for sharing the data, including whether sharing the data was required by federal law, state law, or a local directive; and
    - (iii) how sharing the data is permitted under federal or state law; and
  - (c) without disclosing personally identifiable student data, is displayed on the education entity's website.
- (15) "Necessary student data" means data required by state statute or federal law to conduct the regular activities of an education entity, including:
  - (a) name;
  - (b) date of birth;
  - (c) sex;
  - (d) parent contact information;
  - (e) custodial parent information;
  - (f) contact information;
  - (g) a student identification number;
  - (h) local, state, and national assessment results or an exception from taking a local, state, or national assessment;
  - (i) courses taken and completed, credits earned, and other transcript information;
  - (j) course grades and grade point average;
  - (k) grade level and expected graduation date or graduation cohort;
  - (l) degree, diploma, credential attainment, and other school exit information;
  - (m) attendance and mobility;
  - (n) drop-out data;
  - (o) immunization record or an exception from an immunization record;
  - (p) race;
  - (q) ethnicity;
  - (r) tribal affiliation;
  - (s) remediation efforts;

- (t) an exception from a vision screening required under Section 53G-9-404 or information collected from a vision screening required under Section 53G-9-404;
  - (u) information related to the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4;
  - (v) student injury information;
  - (w) a disciplinary record created and maintained as described in Section 53E-9-306;
  - (x) juvenile delinquency records;
  - (y) English language learner status; and
  - (z) child find and special education evaluation data related to initiation of an IEP.
- (16)
- (a) "Optional student data" means student data that is not:
    - (i) necessary student data; or
    - (ii) student data that an education entity may not collect under Section 53E-9-305.
  - (b) "Optional student data" includes:
    - (i) information that is:
      - (A) related to an IEP or needed to provide special needs services; and
      - (B) not necessary student data;
    - (ii) biometric information; and
    - (iii) information that is not necessary student data and that is required for a student to participate in a federal or other program.
- (17) "Parent" means:
- (a) a student's parent;
  - (b) a student's legal guardian; or
  - (c) an individual who has written authorization from a student's parent or legal guardian to act as a parent or legal guardian on behalf of the student.
- (18)
- (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.
  - (b) "Personally identifiable student data" includes:
    - (i) a student's first and last name;
    - (ii) the first and last name of a student's family member;
    - (iii) a student's or a student's family's home or physical address;
    - (iv) a student's email address or other online contact information;
    - (v) a student's telephone number;
    - (vi) a student's social security number;
    - (vii) a student's biometric identifier;
    - (viii) a student's health or disability data;
    - (ix) a student's education entity student identification number;
    - (x) a student's social media user name and password or alias;
    - (xi) if associated with personally identifiable student data, the student's persistent identifier, including:
      - (A) a customer number held in a cookie; or
      - (B) a processor serial number;
    - (xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;
    - (xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

- (xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
- (19) "School official" means an employee or agent of an education entity, if the education entity has authorized the employee or agent to request or receive student data on behalf of the education entity.
- (20)
  - (a) "Student data" means information about a student at the individual student level.
  - (b) "Student data" does not include aggregate or de-identified data.
- (21) "Student data manager" means:
  - (a) the state student data officer; or
  - (b) an individual designated as a student data manager by an education entity under Section 53E-9-303, who fulfills the duties described in Section 53E-9-308.
- (22)
  - (a) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information obtained or inferred over time from that student's online behavior, usage of applications, or student data.
  - (b) "Targeted advertising" does not include advertising to a student:
    - (i) at an online location based upon that student's current visit to that location; or
    - (ii) in response to that student's request for information or feedback, without retention of that student's online activities or requests over time for the purpose of targeting subsequent ads.
- (23) "Third-party contractor" means a person who:
  - (a) is not an education entity; and
  - (b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.
- (24) "Written consent" means written authorization to collect or share a student's student data, from:
  - (a) the student's parent, if the student is not an adult student; or
  - (b) the student, if the student is an adult student.

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 304, 2018 General Session

Amended by Chapter 389, 2018 General Session

### **53E-9-302 State student data protection governance.**

- (1)
  - (a) An education entity or a third-party contractor who collects, uses, stores, shares, or deletes student data shall protect student data as described in this part.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to administer this part, including student data protection standards for public education employees, student aides, and volunteers.
- (2) The board shall oversee the preparation and maintenance of:
  - (a) a statewide data governance plan; and
  - (b) a state-level metadata dictionary.

- (3) As described in this Subsection (3), the board shall establish advisory groups to oversee student data protection in the state and make recommendations to the board regarding student data protection.
- (a) The board shall establish a student data policy advisory group:
- (i) composed of members from:
    - (A) the Legislature;
    - (B) the board and board employees; and
    - (C) one or more LEAs;
  - (ii) to discuss and make recommendations to the board regarding:
    - (A) enacted or proposed legislation; and
    - (B) state and local student data protection policies across the state;
  - (iii) that reviews and monitors the state student data governance plan; and
  - (iv) that performs other tasks related to student data protection as designated by the board.
- (b) The board shall establish a student data governance advisory group:
- (i) composed of the state student data officer and other board employees; and
  - (ii) that performs duties related to state and local student data protection, including:
    - (A) overseeing data collection and usage by board program offices; and
    - (B) preparing and maintaining the board's student data governance plan under the direction of the student data policy advisory group.
- (c) The board shall establish a student data users advisory group:
- (i) composed of members who use student data at the local level; and
  - (ii) that provides feedback and suggestions on the practicality of actions proposed by the student data policy advisory group and the student data governance advisory group.
- (4)
- (a) The board shall designate a state student data officer.
- (b) The state student data officer shall:
- (i) act as the primary point of contact for state student data protection administration in assisting the board to administer this part;
  - (ii) ensure compliance with student privacy laws throughout the public education system, including:
    - (A) providing training and support to applicable board and LEA employees; and
    - (B) producing resource materials, model plans, and model forms for local student data protection governance, including a model student data collection notice;
  - (iii) investigate complaints of alleged violations of this part;
  - (iv) report violations of this part to:
    - (A) the board;
    - (B) an applicable education entity; and
    - (C) the student data policy advisory group; and
  - (v) act as a state level student data manager.
- (5) The board shall designate:
- (a) at least one support manager to assist the state student data officer; and
  - (b) a student data protection auditor to assist the state student data officer.
- (6) The board shall establish a research review process for a request for data for the purpose of research or evaluation.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 304, 2018 General Session



**53E-9-303 Local student data protection governance.**

- (1) An LEA shall adopt policies to protect student data in accordance with this part and board rule, taking into account the specific needs and priorities of the LEA.
- (2)
  - (a) An LEA shall designate an individual to act as a student data manager to fulfill the responsibilities of a student data manager described in Section 53E-9-308.
  - (b) If possible, an LEA shall designate the LEA's records officer as defined in Section 63G-2-103, as the student data manager.
- (3) An LEA shall create and maintain an LEA:
  - (a) data governance plan; and
  - (b) metadata dictionary.
- (4) An LEA shall establish an external research review process for a request for data for the purpose of external research or evaluation.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-9-304 Student data ownership and access -- Notification in case of significant data breach.**

- (1)
  - (a) A student owns the student's personally identifiable student data.
  - (b) An education entity shall allow the following individuals to access a student's student data that is maintained by the education entity:
    - (i) the student's parent;
    - (ii) the student; and
    - (iii) in accordance with the education entity's internal policy described in Section 53E-9-303 and in the absence of a parent, an individual acting as a parent to the student.
- (2)
  - (a) If a significant data breach occurs at an education entity, the education entity shall notify:
    - (i) the student, if the student is an adult student; or
    - (ii) the student's parent or legal guardian, if the student is not an adult student.
  - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to define a significant data breach described in Subsection (2)(a).

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 304, 2018 General Session

**53E-9-305 Collecting student data -- Prohibition -- Student data collection notice -- Written consent.**

- (1) An education entity may not collect a student's:
  - (a) social security number; or
  - (b) except as required in Section 78A-6-112, criminal record.
- (2) An education entity that collects student data shall, in accordance with this section, prepare and distribute, except as provided in Subsection (3), to parents and students a student data collection notice statement that:
  - (a) is a prominent, stand-alone document;
  - (b) is annually updated and published on the education entity's website;
  - (c) states the student data that the education entity collects;
  - (d) states that the education entity will not collect the student data described in Subsection (1);

- (e) states the student data described in Section 53E-9-308 that the education entity may not share without written consent;
  - (f) includes the following statement: "The collection, use, and sharing of student data has both benefits and risks. Parents and students should learn about these benefits and risks and make choices regarding student data accordingly.";
  - (g) describes in general terms how the education entity stores and protects student data;
  - (h) states a student's rights under this part; and
  - (i) for an education entity that teaches students in grade 9, 10, 11, or 12, requests written consent to share student data with the State Board of Regents as described in Section 53E-9-308.
- (3) The board may publicly post the board's collection notice described in Subsection (2).
- (4) An education entity may collect the necessary student data of a student if the education entity provides a student data collection notice to:
- (a) the student, if the student is an adult student; or
  - (b) the student's parent, if the student is not an adult student.
- (5) An education entity may collect optional student data if the education entity:
- (a) provides, to an individual described in Subsection (4), a student data collection notice that includes a description of:
    - (i) the optional student data to be collected; and
    - (ii) how the education entity will use the optional student data; and
  - (b) obtains written consent to collect the optional student data from an individual described in Subsection (4).
- (6) An education entity may collect a student's biometric identifier or biometric information if the education entity:
- (a) provides, to an individual described in Subsection (4), a biometric information collection notice that is separate from a student data collection notice, which states:
    - (i) the biometric identifier or biometric information to be collected;
    - (ii) the purpose of collecting the biometric identifier or biometric information; and
    - (iii) how the education entity will use and store the biometric identifier or biometric information; and
  - (b) obtains written consent to collect the biometric identifier or biometric information from an individual described in Subsection (4).
- (7) Except under the circumstances described in Subsection 53G-8-211(2), an education entity may not refer a student to an alternative evidence-based intervention described in Subsection 53G-8-211(3) without written consent.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 304, 2018 General Session

**53E-9-306 Using and expunging student data -- Rulemaking -- Disciplinary records.**

- (1) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding using and expunging student data, including:
- (a) a categorization of disciplinary records that includes the following levels of maintenance:
    - (i) one year;
    - (ii) three years; and
    - (iii) in accordance with Subsection (3), as determined by the education entity;
  - (b) the types of student data that may be expunged, including:

- (i) medical records; and
  - (ii) behavioral test assessments;
- (c) the types of student data that may not be expunged, including:
  - (i) grades;
  - (ii) transcripts;
  - (iii) a record of the student's enrollment; and
  - (iv) assessment information; and
- (d) the timeline and process for a prior student or parent of a prior student to request that an education entity expunge all of the prior student's student data.
- (2) In accordance with board rule, an education entity may create and maintain a disciplinary record for a student.
- (3)
  - (a) As recognized in Section 53E-9-304, and to ensure maximum student data privacy, an education entity shall, in accordance with board rule, expunge a student's student data that is stored by the education entity.
  - (b) An education entity shall retain and dispose of records in accordance with Section 63G-2-604 and board rule.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 304, 2018 General Session

**53E-9-307 Securing and cataloguing student data.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

- (1) using reasonable data industry best practices, prescribe the maintenance and protection of stored student data by:
  - (a) an education entity;
  - (b) the Utah Registry of Autism and Developmental Disabilities, described in Section 26-7-4, for student data obtained under Section 53E-9-308; and
  - (c) a third-party contractor; and
- (2) state requirements for an education entity's metadata dictionary.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 304, 2018 General Session

**53E-9-308 Sharing student data -- Prohibition -- Requirements for student data manager -- Authorized student data sharing.**

- (1)
  - (a) Except as provided in Subsection (1)(b), an education entity, including a student data manager, may not share personally identifiable student data without written consent.
  - (b) An education entity, including a student data manager, may share personally identifiable student data:
    - (i) in accordance with the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h;
    - (ii) as required by federal law; and
    - (iii) as described in Subsections (3), (5), and (6).
- (2) A student data manager shall:

- (a) authorize and manage the sharing, outside of the student data manager's education entity, of personally identifiable student data for the education entity as described in this section;
  - (b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302; and
  - (c) fulfill other responsibilities described in the data governance plan of the student data manager's education entity.
- (3) A student data manager may share a student's personally identifiable student data with a caseworker or representative of the Department of Human Services if:
- (a) the Department of Human Services is:
    - (i) legally responsible for the care and protection of the student, including the responsibility to investigate a report of educational neglect, as provided in Subsection 62A-4a-409(5); or
    - (ii) providing services to the student;
  - (b) the student's personally identifiable student data is not shared with a person who is not authorized:
    - (i) to address the student's education needs; or
    - (ii) by the Department of Human Services to receive the student's personally identifiable student data; and
  - (c) the Department of Human Services maintains and protects the student's personally identifiable student data.
- (4) The Department of Human Services, a school official, or the Utah Juvenile Court may share personally identifiable student data to improve education outcomes for youth:
- (a) in the custody of, or under the guardianship of, the Department of Human Services;
  - (b) receiving services from the Division of Juvenile Justice Services;
  - (c) in the custody of the Division of Child and Family Services;
  - (d) receiving services from the Division of Services for People with Disabilities; or
  - (e) under the jurisdiction of the Utah Juvenile Court.
- (5)
- (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.
  - (b) A person who receives personally identifiable student data under Subsection (5)(a) may not use the personally identifiable student data outside of the use described in the subpoena.
- (6)
- (a) A student data manager may share student data, including personally identifiable student data, in response to a request to share student data for the purpose of research or evaluation, if the student data manager:
    - (i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);
    - (ii) submits the request to the education entity's research review process; and
    - (iii) fulfills the instructions that result from the review process.
  - (b)
    - (i) In accordance with state and federal law, the board shall share student data, including personally identifiable student data, as requested by the Utah Registry of Autism and Developmental Disabilities described in Section 26-7-4.
    - (ii) A person who receives student data under Subsection (6)(b)(i):
      - (A) shall maintain and protect the student data in accordance with board rule described in Section 53E-9-307;
      - (B) may not use the student data for a purpose not described in Section 26-7-4; and
      - (C) is subject to audit by the state student data officer described in Section 53E-9-302.

- (c) The board shall enter into an agreement with the State Board of Regents, established in Section 53B-1-103, to share higher education outreach student data, for students in grades 9 through 12 who have obtained written consent under Subsection 53E-9-305(2)(i), to be used strictly for the purpose of:
  - (i) providing information and resources to students in grades 9 through 12 about higher education; and
  - (ii) helping students in grades 9 through 12 enter the higher education system and remain until graduation.

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 285, 2018 General Session

Amended by Chapter 304, 2018 General Session

**53E-9-309 Third-party contractors.**

- (1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.
- (2) When contracting with a third-party contractor, an education entity shall require the following provisions in the contract:
  - (a) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and board rule;
  - (b) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;
  - (c) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;
  - (d) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and
  - (e) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.
- (3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.
- (4) A third-party contractor may:
  - (a) use student data for adaptive learning or customized student learning purposes;
  - (b) market an educational application or product to a parent of a student if the third-party contractor did not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;
  - (c) use a recommendation engine to recommend to a student:
    - (i) content that relates to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party; or
    - (ii) services that relate to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party;
  - (d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;

- (e) use student data to allow or improve operability and functionality of the third-party contractor's application; or
- (f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:
  - (i) regardless of whether the identified nonprofit institutions of higher education or scholarship providers provide payment or other consideration to the third-party contractor; and
  - (ii) only if the third-party contractor obtains authorization in writing from:
    - (A) a student's parent through the student's school or LEA; or
    - (B) for an adult student, the student.
- (5) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or the student's parent consents to the maintenance of the personally identifiable student data.
- (6)
  - (a) A third-party contractor may not:
    - (i) except as provided in Subsection (6)(b), sell student data;
    - (ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or
    - (iii) use student data for targeted advertising.
  - (b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.
- (7) The provisions of this section do not:
  - (a) apply to the use of a general audience application, including the access of a general audience application with login credentials created by a third-party contractor's application;
  - (b) apply to the providing of Internet service; or
  - (c) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.
- (8) A provision of this section that relates to a student's student data does not apply to a third-party contractor if the third-party contractor obtains authorization from the following individual, in writing, to waive that provision:
  - (a) the student's parent, if the student is not an adult student; or
  - (b) the student, if the student is an adult student.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 304, 2018 General Session

### **53E-9-310 Penalties.**

- (1)
  - (a) A third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:
    - (i) except as provided in Subsection (1)(b), may not enter into a future contract with an education entity;
    - (ii) may be required by the board to pay a civil penalty of up to \$25,000; and
    - (iii) may be required to pay:
      - (A) the education entity's cost of notifying parents and students of the unauthorized sharing or use of student data; and

- (B) expenses incurred by the education entity as a result of the unauthorized sharing or use of student data.
  - (b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:
    - (i) the board or education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and
    - (ii) the third-party contractor demonstrates:
      - (A) if the third-party contractor is under contract with an education entity, current compliance with this part; or
      - (B) an ability to comply with the requirements of this part.
  - (c) The board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (d) The board may bring an action in the district court of the county in which the office of the board is located, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).
  - (e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.
- (2)
- (a) A parent or adult student may bring an action in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section 53E-9-309 by a third-party contractor.
  - (b) If the court finds that a third-party contractor has violated Section 53E-9-309, the court may award to the parent or student:
    - (i) damages; and
    - (ii) costs.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 304, 2018 General Session

## **Chapter 10 Other Programs**

### **Part 1 General Provisions**

#### **53E-10-101 Title.**

This chapter is known as "Other Programs."

Enacted by Chapter 1, 2018 General Session

### **Part 2 Adult Education**

#### **53E-10-201 Definitions.**

Reserved

Enacted by Chapter 1, 2018 General Session

**53E-10-202 State Board of Education to supervise.**

- (1) The general control and supervision, but not the direct management, of adult education is vested in the State Board of Education.
- (2) The board has the following powers:
  - (a) makes and enforces rules to organize, conduct, and supervise adult education;
  - (b) appoints state staff for the adult education program, establishes their duties, and fixes their compensation;
  - (c) determines the qualifications of, and issues teaching certificates to, persons employed to give adult education instruction; and
  - (d) determines the basis of apportionment and distributes funds made available for adult education.
- (3)
  - (a) The State Board of Education shall make rules providing for the establishment of fees which shall be imposed by local school boards for participation in adult education programs.
  - (b) A fee structure for adult education shall take into account the ability of a Utah resident who participates in adult education to pay the fees.
  - (c) Sections 53G-7-504 and 53G-7-505 pertaining to fees and fee waivers in secondary schools do not apply to adult education.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-203 Director of adult education.**

- (1) Upon recommendation of the state superintendent, the State Board of Education may appoint a full-time director for adult education to work under the supervision of the board.
- (2) The director may coordinate the adult education program authorized under Sections 53E-10-202 through 53E-10-206 with other adult education programs.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-204 Local school boards' authority to direct adult education programs.**

A local school board may do the following:

- (1) establish and maintain classes for adult education, with classes being held at times and places convenient and accessible to the members of the class;
- (2) raise and appropriate funds for an adult education program;
- (3) subject to Sections 53E-10-202 and 53G-7-502, determine fees for participation in an adult education program; and
- (4) hire persons to instruct adult education classes.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-205 Eligibility.**

- (1) Adult education classes are open to every person 18 years of age or over and to any person who has completed high school.



- (2) Eligible nonresidents of the state shall be charged tuition at least equal to that charged nonresident students for similar classes at a local or nearby state college or university, unless waived in whole or in part by the local school board in an open meeting.
- (3) The district superintendent may, upon the recommendation of an authorized representative of the Division of Child and Family Services, exempt an adult domiciled in Utah from the payment of adult education fees.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-206 Salaries -- Costs.**

- (1) Salaries and other necessary expenses of the state adult education staff shall be paid from funds appropriated for adult education.
- (2) The State Board of Education shall determine the terms and conditions of payment.
- (3) A local school board shall pay all costs incident to the local administration and operation of its adult education program.
- (4) The board shall submit reports required by the State Board of Education for the administration of adult education.

Renumbered and Amended by Chapter 1, 2018 General Session

### **Part 3**

### **Concurrent Enrollment**

**53E-10-301 Definitions.**

- (1) "Concurrent enrollment" means enrollment in a course offered through the concurrent enrollment program described in Section 53E-10-302.
- (2) "Educator" means the same as that term is defined in Section 53E-6-102.
- (3) "Eligible instructor" means an instructor who meets the requirements described in Subsection 53E-10-302(5).
- (4) "Eligible student" means a student who:
  - (a) is enrolled in, and counted in average daily membership in, a high school within the state;
  - (b) has a plan for college and career readiness, as described in Section 53E-2-304, on file at a high school within the state; and
  - (c)
    - (i) is a grade 11 or grade 12 student; or
    - (ii) is a grade 9 or grade 10 student who qualifies by exception as described in Section 53E-10-302.
- (5) "Institution of higher education" means an institution that is part of the Utah System of Higher Education described in Subsection 53B-1-102(1)(a).
- (6) "License" means the same as that term is defined in Section 53E-6-102.
- (7) "Local education agency" or "LEA" means a school district or charter school.
- (8) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 22, 2018 General Session

Amended by Chapter 410, 2018 General Session

**53E-10-302 Concurrent enrollment program.**

- (1) The State Board of Education and the State Board of Regents shall establish and maintain a concurrent enrollment program that:
  - (a) provides an eligible student the opportunity to enroll in a course that allows the eligible student to earn credit concurrently:
    - (i) toward high school graduation; and
    - (ii) at an institution of higher education;
  - (b) includes only a course that:
    - (i) leads to a degree or certificate offered by an institution of higher education; and
    - (ii) is one of the following:
      - (A) a general education course;
      - (B) a career and technical education course;
      - (C) a pre-major college level course; or
      - (D) a foreign language concurrent enrollment course described in Section 53E-10-307;
  - (c) requires that the instructor of a concurrent enrollment course is an eligible instructor; and
  - (d) is designed and implemented to take full advantage of the most current available education technology.
- (2) The State Board of Education and the State Board of Regents shall coordinate to:
  - (a) establish a concurrent enrollment course approval process that ensures:
    - (i) credit awarded for concurrent enrollment is consistent and transferable to all institutions of higher education; and
    - (ii) learning outcomes for a concurrent enrollment course align with:
      - (A) core standards for Utah public schools adopted by the State Board of Education; and
      - (B) except for a foreign language concurrent enrollment course described in Section 53E-10-307, an institution of higher education lower division course numbered at or above the 1000 level; and
  - (b) provide advising to an eligible student, including information on:
    - (i) general education requirements at institutions of higher education; and
    - (ii) how to choose concurrent enrollment courses to avoid duplication or excess credit hours.
- (3) After consultation with institution of higher education concurrent enrollment directors, the State Board of Regents shall:
  - (a) provide guidelines to an institution of higher education for establishing qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course; and
  - (b) on or before January 1, 2019, establish a policy that:
    - (i) describes the qualifications for an LEA employee to be an eligible instructor; and
    - (ii) ensures that the qualifications described in Subsection (3)(b)(i):
      - (A) maximize concurrent enrollment opportunities for eligible students while maintaining quality; and
      - (B) allow for an individual who teaches a concurrent enrollment course in the 2017-18 or 2018-19 school year to continue to teach the concurrent enrollment course in subsequent years.
- (4) To qualify for funds under Section 53F-2-409, an LEA and an institution of higher education shall:

- (a) enter into a contract, in accordance with Section 53E-10-303, to provide one or more concurrent enrollment courses that are approved under the course approval process described in Subsection (2);
  - (b) ensure that an instructor who teaches a concurrent enrollment course is an eligible instructor;
  - (c) establish qualifying academic criteria for an eligible student to enroll in a concurrent enrollment course, in accordance with the guidelines described in Subsection (3)(a);
  - (d) ensure that a student who enrolls in a concurrent enrollment course is an eligible student; and
  - (e) coordinate advising to eligible students.
- (5)
- (a) An institution of higher education faculty member is an eligible instructor.
  - (b) An LEA employee is an eligible instructor if the LEA employee:
    - (i) is licensed under Chapter 6, Education Professional Licensure;
    - (ii) is supervised by an institution of higher education; and
    - (iii)
      - (A) meets the qualifications described in the policy established under Subsection (3)(b); or
      - (B) has an upper level mathematics credential issued by the State Board of Education.
  - (c) Notwithstanding Subsection (5)(b)(iii), an LEA employee is an eligible instructor if:
    - (i) the State Board of Regents has not established the policy described in Subsection (3)(b); and
    - (ii) the LEA employee:
      - (A) meets the requirements described in Subsections (5)(b)(i) and (ii); and
      - (B) is approved as adjunct faculty by an institution of higher education.
- (6) An LEA and an institution of higher education may qualify a grade 9 or grade 10 student to enroll in a current enrollment course by exception, including a student who otherwise qualifies to take a foreign language concurrent enrollment course described in Section 53E-10-307.
- (7) An institution of higher education shall accept credits earned by a student who completes a concurrent enrollment course on the same basis as credits earned by a full-time or part-time student enrolled at the institution of higher education.

Renumbered and Amended by Chapter 1, 2018 General Session  
Amended by Chapter 410, 2018 General Session

**53E-10-303 Designated institution of higher education -- Concurrent enrollment course right of first refusal.**

- (1) As used in this section, "designated institution of higher education" means an institution of higher education that is designated by the State Board of Regents to provide a course or program of study within a specific geographic region.
- (2) To offer a concurrent enrollment course, an LEA shall contact the LEA's designated institution of higher education to request that the designated institution of higher education contract with the LEA to provide the concurrent enrollment course.
- (3) If the LEA's designated institution of higher education chooses to offer the concurrent enrollment course, the LEA shall contract with the LEA's designated institution of higher education to provide the concurrent enrollment course.
- (4) An LEA may contract with an institution of higher education that is not the LEA's designated institution of higher education to provide a concurrent enrollment course if the LEA's designated institution of higher education:
  - (a) chooses not to offer the concurrent enrollment course proposed by the LEA; or

- (b) fails to respond to the LEA's request under Subsection (2) within 30 days after the day on which the LEA contacts the designated institution of higher education.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-304 Concurrent enrollment participation form -- Parental permission.**

- (1) The State Board of Regents shall create a higher education concurrent enrollment participation form that includes a parental permission form.
- (2) Before allowing an eligible student to participate in concurrent enrollment, an LEA and an institution of higher education shall ensure that the eligible student has, for the current school year:
  - (a) submitted the participation form described in Subsection (1);
  - (b) signed an acknowledgment of program participation requirements; and
  - (c) obtained parental permission as indicated by the signature of a student's parent or legal guardian on the parental permission form.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-305 Tuition and fees.**

- (1) Except as provided in this section, the State Board of Regents or an institution of higher education may not charge tuition or fees for a concurrent enrollment course.
- (2)
  - (a) The State Board of Regents may charge a one-time fee for a student to participate in the concurrent enrollment program.
  - (b) A student who pays a fee described in Subsection (2)(a) does not satisfy a general admission application fee requirement for a full-time or part-time student at an institution of higher education.
- (3)
  - (a) An institution of higher education may charge a one-time admission application fee for concurrent enrollment course credit offered by the institution of higher education.
  - (b) Payment of the fee described in Subsection (3)(a) satisfies the general admission application fee requirement for a full-time or part-time student at an institution of higher education.
- (4)
  - (a) Except as provided in Subsection (4)(b), an institution of higher education may charge partial tuition of no more than \$30 per credit hour for a concurrent enrollment course for which a student earns college credit.
  - (b) An institution of higher education may not charge more than:
    - (i) \$5 per credit hour for an eligible student who qualifies for free or reduced price school lunch;
    - (ii) \$10 per credit hour for a concurrent enrollment course that is taught at an LEA by an eligible instructor described in Subsection 53E-10-302(5)(c); or
    - (iii) \$15 per credit hour for a concurrent enrollment course that is taught through video conferencing.

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 410, 2018 General Session

**53E-10-306 Funding.**

Unless otherwise specified, the provisions of this part and Section 53F-2-409 govern concurrent enrollment funding.

Enacted by Chapter 1, 2018 General Session

**53E-10-307 Concurrent enrollment courses for accelerated foreign language students.**

(1) As used in this section:

(a) "Accelerated foreign language student" means a student who:

- (i) has passed a world language advanced placement exam; and
- (ii) is in grade 10, grade 11, or grade 12.

(b) "Blended learning delivery model" means an education delivery model in which a student learns, at least in part:

- (i) through online learning with an element of student control over time, place, path, and pace; and
- (ii) in the physical presence of an instructor.

(c) "State university" means an institution of higher education that offers courses leading to a bachelor's degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:

- (a) are age-appropriate foreign language courses for accelerated foreign language students who are eligible students;
- (b) count toward a foreign language degree offered by an institution of higher education; and
- (c) are delivered:
  - (i) using a blended learning delivery model; and
  - (ii) by an eligible instructor described in Subsection 53E-10-302(5)(b).

Renumbered and Amended by Chapter 1, 2018 General Session

Amended by Chapter 410, 2018 General Session

**53E-10-308 Reporting.**

The State Board of Education and the State Board of Regents shall submit an annual written report to the Higher Education Appropriations Subcommittee and the Public Education Appropriations Subcommittee on student participation in the concurrent enrollment program, including:

- (1) data on the higher education tuition not charged due to the hours of higher education credit granted through concurrent enrollment;
- (2) tuition or fees charged under Section 53E-10-305;
- (3) an accounting of the money appropriated for concurrent enrollment; and
- (4) a justification of the distribution method described in Subsections 53F-2-409(3)(d) and (e).

Renumbered and Amended by Chapter 1, 2018 General Session

**Part 4**  
**American Indian-Alaskan Native Education State Plan**

**53E-10-401 Definitions.**

As used in this part:

- (1) "Commission" means the American Indian-Alaskan Native Education Commission created in Section 53E-10-403.
- (2) "Liaison" means the individual appointed under Section 53E-10-402.
- (3) "Native American Legislative Liaison Committee" means the committee created in Section 36-22-1.
- (4) "State plan" means the state plan adopted under Section 53E-10-405.
- (5) "Superintendent" means the superintendent of public instruction appointed under Section 53E-3-301.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-402 American Indian-Alaskan Native Public Education Liaison.**

- (1) Subject to budget constraints, the superintendent shall appoint an individual as the American Indian-Alaskan Native Public Education Liaison.
- (2) The liaison shall work under the direction of the superintendent in the development and implementation of the state plan.
- (3) The liaison shall annually report to the Native American Legislative Liaison Committee about:
  - (a) the liaison's activities; and
  - (b) the activities related to the education of American Indians and Alaskan Natives in the state's public school system and efforts to close the achievement gap.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-403 Commission created.**

- (1) There is created a commission known as the "American Indian-Alaskan Native Education Commission." The commission shall consist of 16 members as follows:
  - (a) the superintendent;
  - (b) the liaison;
  - (c) two individuals appointed by the State Board of Education that are coordinators funded in whole or in part under Title VII, Elementary and Secondary Education Act;
  - (d) three members of the Native American Legislative Liaison Committee appointed by the chairs of the Native American Legislative Liaison Committee;
  - (e) a representative of the Navajo Nation who resides in Utah selected by the Navajo Utah Commission;
  - (f) a representative of the Ute Indian Tribe of the Uintah and Ouray Reservation who resides in Utah selected by the Uintah and Ouray Tribal Business Committee;
  - (g) a representative of the Paiute Indian Tribe of Utah who resides in Utah selected by the Paiute Indian Tribe of Utah Tribal Council;
  - (h) a representative of the Northwestern Band of the Shoshone Nation who resides in Utah selected by the Northwestern Band of the Shoshone Nation Tribal Council;
  - (i) a representative of the Confederated Tribes of the Goshute who resides in Utah selected by the Confederated Tribes of the Goshute Reservation Tribal Council;
  - (j) a representative of the Skull Valley Band of Goshute Indians who resides in Utah selected by the Skull Valley Band of Goshute Indian Tribal Executive Committee;
  - (k) a representative of the Ute Mountain Ute Tribe who resides in Utah selected by the Ute Mountain Ute Tribal Council;

- (l) a representative of the San Juan Southern Paiute Tribe who resides in Utah selected by the San Juan Southern Paiute Tribal Council; and
- (m) an appointee from the governor.
- (2) Unless otherwise determined by the State Board of Education, the superintendent shall chair the commission.
- (3)
  - (a) The superintendent shall call meetings of the commission.
  - (b) Eight members of the commission constitute a quorum of the commission.
  - (c) The action of a majority of the commission at a meeting when a quorum is present constitutes action of the commission.
- (4) If a vacancy occurs in the membership for any reason, the replacement shall be appointed in the same manner of the original appointment for the vacant position.
- (5) The commission may adopt procedures or requirements for:
  - (a) voting, when there is a tie of the commission members; and
  - (b) the frequency of meetings.
- (6)
  - (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
    - (i) Section 63A-3-106;
    - (ii) Section 63A-3-107; and
    - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
  - (b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (7) The staff of the State Board of Education shall staff the commission.
- (8) The commission shall be dissolved on December 31, 2015.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-404 Duties of the commission.**

- (1) The commission shall develop a proposed state plan to be presented to the Native American Legislative Liaison Committee to address the educational achievement gap of the American Indian and Alaskan Native students in the state.
- (2) The proposed state plan shall:
  - (a) identify the most critical academic needs of Utah's American Indian and Alaskan Native students;
  - (b) recommend a course of action to meet the identified needs;
  - (c) be based on, and include, a summary of the best available evidence and most recent data;
  - (d) focus on specific actions;
  - (e) identify existing programs and resources;
  - (f) prioritize more efficient and better use of existing programs and resources to meet the needs of American Indian and Alaskan Native students;
  - (g) include ongoing reporting to the Native American Legislative Liaison Committee;
  - (h) include a plan to hire, retain, and promote highly qualified teachers as quickly as feasible; and
  - (i) add a process for sharing data with tribal education leaders.
- (3) The commission shall present the proposed state plan developed under Subsection (1) to the Native American Legislative Liaison Committee by no later than October 31, 2015.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-405 Adoption of state plan.**

- (1) After receipt of the proposed state plan from the commission in accordance with Section 53E-10-404, the Native American Legislative Liaison Committee may review the proposed state plan and make changes to the proposed state plan that the Native American Legislative Liaison Committee considers beneficial to addressing the educational achievement gap of the state's American Indian and Alaskan Native students.
- (2)
  - (a) The Native American Legislative Liaison Committee shall submit the proposed state plan as modified by the Native American Legislative Liaison Committee to the Utah State Board of Education.
  - (b) The Utah State Board of Education shall, by majority vote, within 60 days after receipt of the state plan under Subsection (2)(a), adopt, modify, or reject the state plan. If the Utah State Board of Education does not act within 60 days after receipt of the state plan, the state plan is considered adopted by the Utah State Board of Education.
- (3) The Native American Legislative Liaison Committee may prepare legislation to implement the state plan adopted under this section.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-406 Changes to state plan.**

- (1) The Native American Legislative Liaison Committee may recommend to the Utah State Board of Education changes to the state plan adopted under Section 53E-10-405 to ensure that the state plan continues to meet the academic needs of the state's American Indian and Alaskan Native students.
- (2) The Native American Legislative Liaison Committee may recommend to the superintendent that the commission be reconstituted for an 18-month period if the Native American Legislative Liaison Committee determines that a substantial review of the state plan is necessary. If reconstituted under this Subsection (2), the commission shall comply with the requirements of Sections 53E-10-402 through 53E-10-404.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-407 Pilot program.**

Title 53F, Chapter 5, Part 6, American Indian and Alaskan Native Education State Plan Pilot Program, creates a program to address the needs of American Indian and Alaskan Native students.

Enacted by Chapter 1, 2018 General Session

**Part 5**  
**School Safety and Crisis Line**

**53E-10-501 Definitions.**

As used in this part:



- (1) "Commission" means the School Safety and Crisis Line Commission established in Section 53E-10-503.
- (2) "University Neuropsychiatric Institute" means the mental health and substance abuse treatment institute within the University of Utah Hospitals and Clinics.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-502 School Safety and Crisis Line established.**

The University Neuropsychiatric Institute shall:

- (1) establish a School Safety and Crisis Line to provide:
  - (a) a means for an individual to anonymously report:
    - (i) unsafe, violent, or criminal activities, or the threat of such activities at or near a public school;
    - (ii) incidents of bullying, cyber-bullying, harassment, or hazing; and
    - (iii) incidents of physical or sexual abuse committed by a school employee or school volunteer; and
  - (b) crisis intervention, including suicide prevention, to individuals experiencing emotional distress or psychiatric crisis;
- (2) provide the services described in Subsection (1) 24 hours a day, seven days a week; and
- (3) when necessary, or as required by law, promptly forward a report received under Subsection (1)(a) to appropriate:
  - (a) school officials; and
  - (b) law enforcement officials.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-503 School Safety and Crisis Line Commission established -- Members.**

- (1) There is created the School Safety and Crisis Line Commission composed of the following members:
  - (a) one member who represents the Office of the Attorney General, appointed by the attorney general;
  - (b) one member who represents the Utah Public Education System, appointed by the State Board of Education;
  - (c) one member who represents the Utah System of Higher Education, appointed by the State Board of Regents;
  - (d) one member who represents the Utah Department of Health, appointed by the executive director of the Department of Health;
  - (e) one member of the House of Representatives, appointed by the speaker of the House of Representatives;
  - (f) one member of the Senate, appointed by the president of the Senate;
  - (g) one member who represents the University Neuropsychiatric Institute, appointed by the chair of the commission;
  - (h) one member who represents law enforcement who has extensive experience in emergency response, appointed by the chair of the commission;
  - (i) one member who represents the Utah Department of Human Services who has experience in youth services or treatment services, appointed by the executive director of the Department of Human Services; and
  - (j) two members of the public, appointed by the chair of the commission.
- (2)

- (a) Except as provided in Subsection (2)(b), members of the commission shall be appointed to four-year terms.
  - (b) The length of the terms of the members shall be staggered so that approximately half of the committee is appointed every two years.
  - (c) When a vacancy occurs in the membership of the commission, the replacement shall be appointed for the unexpired term.
- (3)
- (a) The attorney general's designee shall serve as chair of the commission.
  - (b) The chair shall set the agenda for commission meetings.
- (4) Attendance of a simple majority of the members constitutes a quorum for the transaction of official commission business.
- (5) Formal action by the commission requires a majority vote of a quorum.
- (6)
- (a) Except as provided in Subsection (6)(b), a member may not receive compensation, benefits, per diem, or travel expenses for the member's service.
  - (b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
- (7) The Office of the Attorney General shall provide staff support to the commission.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-504 School Safety and Crisis Line Commission duties.**

The commission shall coordinate:

- (1) statewide efforts related to the School Safety and Crisis Line; and
- (2) with the State Board of Education and the State Board of Regents to promote awareness of the services available through the School Safety and Crisis Line.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-505 State Board of Education and local boards of education to update policies and promote awareness.**

(1) The State Board of Education shall:

- (a) revise the conduct and discipline policy models, described in Section 53G-8-202, to include procedures for responding to reports received under Subsection 53E-10-502(3); and
- (b) revise the curriculum developed by the State Board of Education for the parent seminar, described in Section 53G-9-703, to include information about the School Safety and Crisis Line.

(2) A local school board or charter school governing board shall:

- (a) revise the conduct and discipline policies, described in Section 53G-8-203, to include procedures for responding to reports received under Subsection 53E-10-502(3); and
- (b) inform students, parents, and school personnel about the School Safety and Crisis Line.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-506 Higher education implementation of School Safety and Crisis Line.**

- (1) The state suicide prevention coordinator, described in Section 62A-15-1101, shall award a grant to each institution of higher education that:
  - (a) is located in Utah;

- (b) applies for a grant to fully implement the School Safety and Crisis Line, described in Section 53E-10-502; and
- (c) demonstrates sufficient funds to pay for at least 50% of the cost of implementation.
- (2) A grant awarded under Subsection (1) shall total no more than 50% of the cost for the applicant to fully implement the School Safety and Crisis Line.
- (3) Full implementation of the School Safety and Crisis Line includes:
  - (a) providing access to the School Safety and Crisis Line to every student enrolled in the institution;
  - (b) revising the institution's conduct and discipline policy to include procedures for the institution to respond to reports received under Subsection 53E-10-502(3); and
  - (c) informing students enrolled in the institution and school personnel, including faculty and staff, about the School Safety and Crisis Line.

Enacted by Chapter 414, 2018 General Session

## **Part 6**

### **Electronic High School**

#### **53E-10-601 Definitions.**

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Electronic High School" means a rigorous program offering grade 9 - 12 level online courses and coordinated by the board.
- (3) "Home-schooled student" means a student:
  - (a) attends a home school;
  - (b) is exempt from school attendance pursuant to Section 53G-6-204; and
  - (c) attends no more than two regularly scheduled classes or courses in a public school per semester.
- (4) "Open-entry, open-exit" means:
  - (a) a method of instructional delivery that allows for flexible scheduling in response to individual student needs or requirements and demonstrated competency when knowledge and skills have been mastered; and
  - (b) students have the flexibility to begin or end study at any time, progress through course material at their own pace, and demonstrate competency when knowledge and skills have been mastered.

Renumbered and Amended by Chapter 1, 2018 General Session

#### **53E-10-602 Electronic High School created -- Purpose.**

The Electronic High School is created:

- (1) to provide an opportunity for a student who has failed a course to retake the course and earn course credit;
- (2) to allow a student to complete high school graduation requirements and exit high school early;
- (3) to allow a student to take a course online so that the student has greater flexibility in scheduling courses during the regular school day; and

- (4) to allow a home-schooled or private school student in Utah to take a course that meets the Utah high school core standards for Utah public schools.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-603 Courses and credit.**

- (1) The Electronic High School may only offer courses required for high school graduation or that fulfill course requirements established by the State Board of Education.
- (2) The Electronic High School shall:
  - (a) offer courses in an open-entry, open-exit format; and
  - (b) offer courses that are in conformance with the core standards for Utah public schools established by the board.
- (3) Public schools shall:
  - (a) accept all credits awarded to students by the Electronic High School; and
  - (b) apply credits awarded for a course described in Subsection (2)(b) toward the fulfillment of course requirements.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-604 Student eligibility for enrollment.**

- (1) Utah students at any age or in any grade may enroll in Electronic High School courses.
- (2) The Electronic High School shall accept students into courses on a first-come first-served basis.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-605 Services to students with disabilities.**

Students with disabilities who may need additional services or resources and who seek to enroll in Electronic High School classes may request appropriate accommodations through the students' assigned schools or school districts.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-606 Payment for an Electronic High School course.**

- (1) Electronic High School courses are provided to students who are Utah residents, as defined in Section 53G-6-302, free of charge.
- (2) Nonresident students may enroll in Electronic High School courses for a fee set by the board, provided that the course can accommodate additional students.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-607 Electronic High School diploma.**

The Electronic High School may award a diploma to a student that meets any of the following criteria upon the student's completion of high school graduation requirements set by the board:

- (1) a home-schooled student;
  - (2) a student who has dropped out of school and whose original high school class has graduated;
- or

- (3) a student who is identified by the student's resident school district as ineligible for graduation from a traditional high school program for specific reasons.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-608 Review by legislative auditor general.**

- (1) The legislative auditor general shall conduct a performance audit of the Electronic High School as directed by the Legislative Audit Subcommittee.
- (2) In conducting the performance audit of the Electronic High School, the legislative auditor general shall develop performance metrics using factors such as:
  - (a) course completion rate;
  - (b) number of credits earned; and
  - (c) cost of providing online courses.
- (3) The legislative auditor general shall use the performance metrics developed under Subsection (2) to evaluate the Electronic High School in comparison with other online programs.

Renumbered and Amended by Chapter 1, 2018 General Session

**53E-10-609 State contribution for the Electronic High School.**

Money appropriated to the State Board of Education for the Electronic High School shall be distributed to the school according to rules established by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Renumbered and Amended by Chapter 1, 2018 General Session

## **Part 7 ULEAD**

**53E-10-701 Definitions.**

As used in this part:

- (1) "Board" means the State Board of Education.
- (2) "Director" means the director of ULEAD appointed under this part.
- (3) "Director Selection Committee" or "selection committee" means the committee created in Section 53E-10-703 that appoints the director.
- (4) "Local education agency" or "LEA" means a public:
  - (a) school district;
  - (b) school; or
  - (c) charter school.
- (5) "Participating institution" means a public or private research institution that enters into an arrangement with the director to provide research and other services described in this part.
- (6) "Research clearinghouse" means a collection of information maintained and distributed by ULEAD in accordance with Section 53E-10-705.
- (7) "Steering committee" means the committee that advises the director and is created in Section 53E-10-706.

- (8) "ULEAD" means Utah Leading through Effective, Actionable, and Dynamic Education through the efforts of the director, participating institutions, and the steering committee as described in this part.

Enacted by Chapter 341, 2018 General Session

**53E-10-702 ULEAD established -- Duties -- Funding.**

There is created the Utah Leading through Effective, Actionable, and Dynamic Education, a collaborative effort in research and innovation between the director, participating institutions, and education leaders to:

- (1) gather and explain current education research in an electronic research clearinghouse for use by practitioners;
- (2) initiate and disseminate research reports on innovative and successful practices by Utah LEAs, and guided by the steering committee, practitioners, and policymakers;
- (3) promote statewide innovation and collaboration by:
  - (a) identifying experts in areas of practice;
  - (b) conducting conferences, webinars, and online forums for practitioners; and
  - (c) facilitating direct collaboration between schools; and
- (4)
  - (a) report to the Legislature and policymakers on innovative and successful K-12 practices; and
  - (b) in the report, propose policy changes to remove barriers to implementation of successful practices.

Enacted by Chapter 341, 2018 General Session

**53E-10-703 ULEAD director -- Qualification and employment -- Duties -- Reporting -- Annual conference.**

- (1) The ULEAD director shall:
  - (a)
    - (i) hold a doctorate degree in education or an equivalent degree; and
    - (ii) have demonstrated experience in research and dissemination of best practices in education; and
  - (b)
    - (i) be a full-time employee; and
    - (ii) report to the state superintendent of public instruction.
- (2) The state superintendent shall:
  - (a) evaluate the director's performance annually;
  - (b) report on the director's performance to the selection committee; and
  - (c) provide space for the director and the director's staff.
- (3) The director may hire staff, using only money specifically appropriated to ULEAD.
- (4) The director shall perform the following duties and functions:
  - (a) gather current research on innovative and effective practices in K-12 education for use by policymakers and practitioners;
  - (b) facilitate collaboration between LEAs, higher education researchers, and practitioners by:
    - (i) sharing innovative and effective practices shown to improve student learning;
    - (ii) identifying experts in specific areas of practice; and
    - (iii) maintaining a research clearinghouse and directory of researchers; and

- (c) analyze barriers to replication or adaption of innovative and successful practices studied by ULEAD or contributed to the ULEAD research clearinghouse.
- (5) The director shall:
  - (a) prioritize reports and other research based on recommendations of the steering committee in accordance with Subsection 53E-10-707(5), and after consulting with individuals described in Subsection 53E-10-707(6);
  - (b) identify Utah LEAs, or schools outside the public school system, that are:
    - (i) innovative in specific areas of practice; and
    - (ii) more effective or efficient than comparable LEAs in improving student learning;
  - (c) establish criteria for innovative practice reports to be performed by participating institutions and included in the research clearinghouse, including report templates;
  - (d) arrange with participating institutions to generate innovative practice reports on effective and innovative K-12 education practices; and
  - (e)
    - (i) disseminate each innovative practice report to LEAs; and
    - (ii) publish innovative practice reports on the ULEAD website.
- (6) In an innovative practice report, a participating institution shall:
  - (a) include or reference a review of research regarding the practice in which the subject LEA has demonstrated success;
  - (b) identify through academically acceptable, evidence-based research methods the causes of the LEA's successful practice;
  - (c) identify opportunities for LEAs to adopt or customize innovative or best practices;
  - (d) address limitations to successful replication or adaptation of the successful practice by other LEAs, which may include barriers arising from federal or state law, state or LEA policy, socioeconomic conditions, or funding limitations;
  - (e) include practical templates for successful replication and adaptation of successful practices, following criteria established by the director;
  - (f) identify experts in the successful practice that is the subject of the innovative practice report, including teachers or administrators at the subject LEA; and
  - (g) include:
    - (i) an executive summary describing the innovative practice report; and
    - (ii) a video component or other elements designed to ensure that an innovative practice report is readily understandable by practitioners.
- (7) The director may, if requested by an LEA leader or policymaker, conduct an evidence-based review of a possible innovation in an area of practice.
- (8) The director may also accept innovative practice reports from trained practitioners that meet the criteria set by the director.
- (9) The director or a participating institution, to enable successful replication or adaption of successful practices, may recommend to:
  - (a) the Legislature, amendments to state law; or
  - (b) the board, revisions to board rule or policy.
- (10) The director shall:
  - (a) report on the activities of ULEAD annually to the board; and
  - (b) provide reports or other information to the board upon board request.
- (11) The director shall:
  - (a) prepare an annual report on ULEAD research and other activities;
  - (b) on or before September 30, submit the annual report:

- (i) to the Education Interim Committee and the Public Education Appropriations Subcommittee; and
  - (ii) in accordance with Section 68-3-14;
  - (c) publish the annual report on the ULEAD website; and
  - (d) disseminate the report to LEAs through electronic channels.
- (12) The director shall facilitate and conduct an annual conference on successful and innovative K-12 education practices, featuring:
- (a) Utah education leaders; and
  - (b) practitioners and researchers, chosen by the director, to discuss the subjects of LEA and other ULEAD activities, or other innovative and successful education practices.

Enacted by Chapter 341, 2018 General Session

**53E-10-704 Director Selection Committee -- Membership -- Powers and duties -- Compensation.**

- (1) There is created the Director Selection Committee to appoint the director.
- (2) The selection committee shall consist of the following nine members each appointed for two-year staggered terms, with the initial terms of the members described in Subsections (2)(a), (b), and (c) to be three years:
  - (a) one member of the office of the governor, who is the chair of the selection committee and appointed by the governor;
  - (b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;
  - (c) one member of the Senate, appointed by the president of the Senate;
  - (d) one member of the board, appointed by the chair of the board;
  - (e) one member of the Board of Regents, appointed by the chair of the Board of Regents;
  - (f) one member appointed by the state superintendent of public instruction;
  - (g) one member of the State Charter School Board, appointed by the chair of the State Charter School Board;
  - (h) one member of the Utah School Boards Association recognized in Section 53G-4-502, appointed by the association executive director; and
  - (i) one member of a state association that represents school superintendents, appointed by the association executive director.
- (3)
  - (a) A member of the selection committee may be appointed for more than one term.
  - (b) If a midterm vacancy occurs on the selection committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.
- (4) A majority of the members shall constitute a quorum for the transaction of selection committee business.
- (5)
  - (a) The selection committee shall select and appoint a director for a four-year term.
  - (b) The director may be appointed for more than one term.
- (6)
  - (a) In a year in which the director is appointed, the selection committee shall:
    - (i) solicit applications for the director position to be submitted no later than June 1;
    - (ii) hold at least two meetings to discuss candidates for the open director position; and



- (iii) select and appoint by majority vote a candidate to fill the director position to begin employment no later than August 1.
- (b) Notwithstanding Subsection (6)(a), if a midterm vacancy in the director position occurs, the selection committee shall:
  - (i) no later than 25 business days after the day on which the position is vacated, solicit applications for the director position;
  - (ii) hold at least two meetings to discuss candidates for the vacant position; and
  - (iii) no later than 60 business days after the day on which the position is vacated, select a candidate to fill the director position for the remainder of the term.
- (7)
  - (a) The selection committee:
    - (i) may remove a director before the completion of the director's term only by a majority vote of the selection committee; and
    - (ii) is the only person empowered to remove the director.
  - (b) The chair shall hold a meeting to consider removing the director upon request of two or more selection committee members.
- (8) A member of the selection committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.
- (9) The selection committee shall:
  - (a) establish criteria for evaluation of the ULEAD program, including the degree of participation by participating institutions and practitioners; and
  - (b) evaluate the effectiveness of ULEAD every four years for purposes of continuing the program.
- (10) The selection committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Enacted by Chapter 341, 2018 General Session

### **53E-10-705 Participating institutions.**

- (1) The director may arrange or collaborate with a participating institution:
  - (a) to conduct an innovative practice report or provide other research services, including research regarding barriers to adoption of practices studied by ULEAD;
  - (b) to assist an LEA to:
    - (i) facilitate communities of practice for replication or adaptation of best practices identified by ULEAD; and
    - (ii) advise teachers and school leaders on conducting their own research to improve education practices;
  - (c) to assist an LEA with an application to the board for waiver from a board rule in accordance with Section 53G-7-202 to allow replication or adaptation of best practices; or
  - (d) for any other purpose that is consistent with and advances the director's duties and functions.
- (2) An agreement entered into by a participating institution with the board or an LEA to perform ULEAD work shall:
  - (a) include provisions allowing and governing external research data sharing; and
  - (b) comply with state and federal law.
- (3) The director shall support federal and private research funding requests by a participating institution for research that is in support of the director's duties and functions.

Enacted by Chapter 341, 2018 General Session

**53E-10-706 Electronic resources -- Research clearinghouse.**

- (1) The board shall publish a ULEAD website containing information provided by the director as described in this part.
- (2) The director shall within two years of appointment:
  - (a) develop and maintain a research clearinghouse publicly available through the website described in Subsection (1); and
  - (b) include in the research clearinghouse:
    - (i) research on K-12 education, including peer-reviewed research;
    - (ii) information on K-12 education innovation and best practices;
    - (iii) an index and explanation of academic, state, federal, or other K-12 education research repositories;
    - (iv) K-12 education research and policy briefs generated by Utah public and private institutions of higher education, including participating institutions, categorized and searchable by topic;
    - (v) access points to and explanation of currently available K-12 education data, including data managed by the Utah Data Research Center created in Section 35A-14-201 and data maintained by the board;
    - (vi) other K-12 education information as determined by the director, including information regarding efforts by institutions or other individuals to promote innovative and effective education practices in Utah; and
    - (vii) each innovative practice report prepared by ULEAD, categorized and searchable by topic, location of the studied LEA, and socioeconomic and demographic profile.
- (3) The director shall publish:
  - (a) an electronic directory of K-12 education experts identified in ULEAD research and reports; and
  - (b) a monthly report to LEAs, via electronic channels provided by the board, highlighting ULEAD activities and soliciting proposals from education practitioners for ULEAD research and reports.
- (4) The director may provide electronic seminars or forums for professional learning regarding subjects of ULEAD research and reports to K-12 practitioners.

Enacted by Chapter 341, 2018 General Session

**53E-10-707 ULEAD Steering Committee.**

- (1)
  - (a) There is created the ULEAD Steering Committee.
  - (b) The director is the chair of the steering committee.
- (2) The steering committee shall consist of the following members each appointed for a term of one year:
  - (a) the director;
  - (b) one member appointed by the chair of the board;
  - (c) the state superintendent of public instruction or the superintendent's designee;
  - (d) the staff director of the State Charter School Board or the director's designee;
  - (e) one member appointed by the office of the governor;
  - (f) one member, appointed by the director, who is a superintendent of a school district;
  - (g) one member, appointed by the director, of a local school board;
  - (h) two principals or other public school leaders of public schools that are not charter schools, appointed by the director;

- (i) two principals or other public school leaders of charter schools, appointed by the director;
  - (j) two educators who hold a current license under Chapter 6, Education Professional Licensure, nominated by LEA leaders and appointed by the director; and
  - (k) two members representing citizens or business, nominated by the members of the public and appointed by the director.
- (3)
- (a) A member of the steering committee may be appointed for more than one term.
  - (b) If a midterm vacancy occurs on the steering committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.
- (4)
- (a) The steering committee shall hold a meeting at least semi annually in January and July or on dates otherwise chosen by the director.
  - (b) The board shall provide space for the steering committee to meet.
- (5) The steering committee shall:
- (a) discuss prospective and current ULEAD projects and findings;
  - (b) consult with and make recommendations to the director to prioritize ULEAD reports and areas of focused research;
  - (c) facilitate connections between the director and Utah's political, business, education technology, and academic communities; and
  - (d) make recommendations to improve gathering, retaining, and disseminating education data and research and evaluation findings for use by participating institutions and other education policy researchers, including data managed by the Utah Data Research Center created in Section 35A-14-201.
- (6) In order to determine research priorities for ULEAD, the director shall consult with:
- (a) members of the Legislature responsible for public education;
  - (b) members of Utah professional education associations, including principals and school boards; and
  - (c) policy-research centers based in Utah.
- (7) The board or state superintendent of public instruction may request that the director arrange with a participating institution to prepare a report on a specific LEA or area of practice meeting the criteria established in this part.
- (8) A member of the steering committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.
- (9) The steering committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Enacted by Chapter 341, 2018 General Session